

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION  
HONORABLE OTIS D. WRIGHT  
UNITED STATES DISTRICT JUDGE PRESIDING

- - -

United States of America, )  
PLAINTIFF, )  
VS. ) NO. CR 10-351 ODW  
Carlos Rivera, Jessica Medina, Raul )  
Prieto, )  
DEFENDANT, )  
\_\_\_\_\_ )

REPORTER'S TRANSCRIPT OF PROCEEDINGS

LOS ANGELES, CALIFORNIA

JURY TRIAL - DAY ONE

TUESDAY, DECEMBER 4, 2012

\_\_\_\_\_  
KATIE E. THIBODEAUX, CSR 9858  
U.S. Official Court Reporter  
312 North Spring Street, #436  
Los Angeles, California 90012

1 APPEARANCES OF COUNSEL:

2

3 FOR PLAINTIFF:

4 U.S. DEPARTMENT OF JUSTICE  
5 U.S. ATTORNEY'S OFFICE  
6 BY: REEMA EL-AMAMY, AUSA  
-and- MICHAEL DORE, AUSA  
7 312 North Spring Street  
Twelfth Floor  
Los Angeles, CA 90012

8

9 FOR DEFENDANT RIVERA:

10 ANGEL NAVARRO LAW OFFICE  
11 BY: ANGEL NAVARRO  
12 714 West Olympic Boulevard  
Suite 450  
Los Angeles, CA 90015

13

14

15 FOR DEFENDANT MEDINA:

16 JOSEPH F. WALSH LAW OFFICES  
17 BY: JOSEPH F. WALSH  
205 South Broadway  
Suite 606  
18 Los Angeles, CA 90012

19

20 FOR DEFENDANT PRIETO:

21 CEPHAS LAW FIRM  
22 BY: DANA CEPHAS  
72960 Fred Waring Drive  
Palm Desert, CA 92260

23

24

25

## I N D E X

<u>OPENING STATEMENT</u>	<u>PAGE</u>
--------------------------	-------------

By Ms. El-Amamy	5
By Mr. Walsh	25
By Mr. Navarro	30
By Mr. Cephas	34

<u>WITNESS NAME</u>	<u>PAGE</u>
---------------------	-------------

Erdem Gorgulu	
Direct Examination by Mr. Dore	41
Cross-Examination by Mr. Navarro	56
Cross-Examination by Mr. Cephas	63
Redirect Examination	68

Brice Devey	
Direct Examination by Mr. Dore	70

Michael Precup	
Direct Examination by Ms. El-Amamy	74
Cross-Examination by Mr. Cephas	83
Cross-Examination by Mr. Navarro	85
Cross-Examination by Mr. Walsh	86

John Lemus	
Direct Examination by Ms. El-Amamy	90
Cross-Examination by Mr. Walsh	98
Cross-Examination by Mr. Cephas	100
Cross-Examination by Mr. Navarro	101
Redirect Examination	103

<u>EXHIBIT</u>	<u>I.D.</u>	<u>IN EVID.</u>
29	42	43
1, 2	44	45
27	46	46
238 - 248	48	48
89, 89A	71	
71-181	80	
71B - 181B	104	104

1 LOS ANGELES, CALIFORNIA; TUESDAY, DECEMBER 4, 2012

2 1:57 P.M.

3 - - - - -

4  
5  
6  
7 (The following proceedings were held in the  
8 presence of the jury:)

9 THE COURT: All right. Ladies and gentlemen, now  
10 that we have a jury, we will begin the trial in earnest  
11 beginning with the opening statements of the lawyers. We  
12 have not yet reached the point where there is going to be  
13 the presentation of evidence in the case. This will not  
14 be evidence. This is the lawyers', a basic outline or  
15 blueprint of the way they see the trial unfolding, the  
16 evidence that they see coming in.

17 You can leave and return to the third floor.  
18 Thank you for your patience and your willingness to  
19 serve. I wish I had a chance to talk to you, sir,  
20 because it sounded like it was going to be interesting.

21 MS. EL-AMAMY: Your Honor, may we have a minute to  
22 set up our computer?

23 THE COURT: Yes.

24 (Pause in proceedings.)

25 THE COURT: All right. Ms. El-Amamy, if you will,

1 your opening statement.

2 MS. EL-AMAMY: Thank you.

3 Good afternoon, ladies and gentlemen.

4 This is a case about guns and drugs.

5 Defendant Carlos Rivera who is seated in the back bought  
6 methamphetamine from a supplier, and he also bought guns  
7 to use in connection with his criminal activity. During  
8 this trial, you are going to hear, though, that he did  
9 not commit his crimes alone. He had help, and he had  
10 help from people that he trusted.

11 One of those people is defendant Jessica  
12 Medina, a person who he is in a romantic relationship  
13 with. The other person is his close friend, cousin who  
14 helped him. They both helped defendant Rivera sell his  
15 drugs to customers throughout the city of Ontario. And  
16 during this trial, you are going to hear specific  
17 examples of crimes that they committed together.

18 These are the pictures. Carlos Rivera, he is  
19 seated in the back, and he goes by the nickname Chino or  
20 Reals. Raul Prieto seated at the table goes by the  
21 nickname Crook. And that is defendant Jessica Medina  
22 also seated at the table.

23 Now, one of the crimes you are going to hear  
24 about in this case occurred on July 22nd, 2009. On this  
25 date, defendant Carlis Rivera unlawfully purchased a

1 firearm, a loaded firearm, and he conducted that gun deal  
2 at defendant Prieto's residence. Now, during this case  
3 you are going to learn about something called a wiretap,  
4 and you are going to hear a number of recorded  
5 conversations. One of those conversations happened on  
6 July 2, 2009 prior to the gun deal taking place, and that  
7 conversation was between defendant Rivera and an  
8 individual, David Hernandez.

9 MR. CEPHAS: Your Honor, I apologize for  
10 interrupting, but just so that there is an accurate  
11 appellate record, I would like the government to identify  
12 the exhibit numbers of the photos that are shown to the  
13 jury because we did preserve our objections.

14 THE COURT: Okay. That is fine.

15 Are they numbered?

16 MS. EL-AMAMY: No, your Honor. I can provide that  
17 after opening statement if that is fine.

18 THE COURT: Okay.

19 MS. EL-AMAMY: Now, during this case, you are  
20 going to hear Carlos Rivera and Mr. Hernandez talk about  
21 getting a gun, and Mr. Hernandez told Mr. Rivera that it  
22 was a loaded gun and they made arrangements to do the  
23 deal. And you are going to hear that defendant Rivera  
24 didn't want to do the deal at his house. He wanted to do  
25 it at a different location, and the next day, they agreed

1 on where that location would be. It would be at  
2 defendant Prieto's house.

3 And you are going to hear them talk about  
4 directing Mr. Hernandez to defendant Prieto's house to do  
5 the gun deal. You are going to hear in the recorded  
6 conversation that defendant Rivera agreed to pay \$250 for  
7 this loaded gun, and you are going to hear that  
8 Mr. Hernandez arrived at defendant Prieto's house to meet  
9 with defendant Rivera on July 22nd, 2009.

10 And the reason you are going to know this is  
11 because law enforcement officers were watching and  
12 waiting for the gun deal to take place. They are going  
13 to see -- they saw defendant Rivera with a gun case that  
14 inside contained the loaded gun, and as soon as they  
15 confronted defendant Rivera, he ran. And you are going  
16 to hear that the location where he ran to was inside  
17 defendant Prieto's house. And the location where he  
18 tried to hide the gun was inside a refrigerator in  
19 defendant Prieto's house. The officers found the gun.

20 And you are also going to hear defendant  
21 Rivera talk to more than one person after this incident  
22 occurred. He is going to admit to you that he possessed  
23 that gun, and he is going to admit to you that he hid it  
24 in defendant Prieto's residence.

25 You are going to hear about another crime.

1 This crime happened on July 31, 2009. On that date,  
2 defendant Rivera sold what you are going to learn is  
3 4.4-grams of pure methamphetamine to narcotics customer  
4 Robert Tolson. Again, you are going to hear recorded  
5 telephone conversations with defendant Rivera making  
6 arrangements to do this deal. He was going to sell these  
7 drugs to Mr. Tolson, a narcotics customer for \$300.

8 And just like the incident that you heard  
9 about previously, law enforcement officers were  
10 conducting surveillance waiting for the deal to happen.  
11 They watched as the transaction took place, and right  
12 after the transaction took place, they stopped Mr. Tolson  
13 who was in the car with another narcotics customer, and  
14 they seized the drugs from those narcotics customers.

15 And what you are going to hear after the fact  
16 is Mr. Tolson having a conversation with defendant Rivera  
17 about the drugs. You are going to learn during the trial  
18 that people involved in crimes apprise each other of law  
19 enforcement activity, and Mr. Tolson let defendant Rivera  
20 know that there were law enforcement officers in the area  
21 and that they stopped them and that they seized the  
22 drugs.

23 But you are also going to hear Mr. Tolson say,  
24 don't worry, I didn't tell them where the drugs were  
25 from, my companion did not tell them that we got the



1 drugs from you. You are going to hear that call.

2 You are also going to hear about another  
3 crime, this one involving defendant Medina and defendant  
4 Carlos Rivera. On August 6th, 2009, these two defendants  
5 possessed approximately 219-grams of pure  
6 methamphetamine. Now, during this trial, you are going  
7 to learn that there is personal use quantities of drugs  
8 and there is distribution quantities of drugs. And  
9 one of the things that you are going to learn is that  
10 219-grams of pure methamphetamine is a very large  
11 quantity of drugs, and you are going to learn that from  
12 defendant Rivera himself. He is going to tell you how  
13 much drugs are sold, and he is going to tell you how much  
14 you can get for those drugs.

15 You are going to learn that during that  
16 recorded conversations with one of his narcotics  
17 customers, Francisco Venegas. Francisco Venegas, and let  
18 me clarify, not a narcotics customer, a drug runner.  
19 This is an individual who worked for defendant Rivera on  
20 a regular basis. Defendant Venegas' job was to  
21 communicate with defendant Rivera, know what kind of  
22 quantity defendant Rivera needed to sell to a narcotics  
23 customer, package the narcotics for distribution and take  
24 it to the narcotics customer.

25 And you are going to hear with frequency those

1 recorded conversations. You are going to hear for  
2 yourselves how much they were selling on a regular basis.  
3 And defendant Rivera is going to have conversations with  
4 both Mr. Venegas as well as narcotics customers and tell  
5 you how much it sells and for what price. For example,  
6 you are going to learn that an ounce is a large quantity  
7 of 28-grams.

8 And you are going to learn that there is  
9 methamphetamine that is high quality and poor quality.  
10 High quality methamphetamine is methamphetamine that is  
11 very pure. It is not mixed with anything. It is strong  
12 versus methamphetamine that you are going to learn is  
13 stepped on, mixed with a dilutant. So the pure  
14 methamphetamine costs more than the methamphetamine that  
15 is of lesser quality. And defendant Rivera is going to  
16 tell you that himself.

17 So high quality methamphetamine, an ounce goes  
18 for \$1100. Whereas in comparison, poor --  
19 methamphetamine of poor quality, an ounce goes for \$900.  
20 Half an ounce, approximately 14-grams, \$550 versus the  
21 lesser quality, 450. A quarter of an ounce,  
22 approximately 7-grams, \$275 versus the 250 of the lesser  
23 quality. And then the smaller quantity that you sell, an  
24 eighth of an ounce which you are going to learn is called  
25 an 8-ball or a ball, \$150 versus \$125 for the poor

1 quality.

2           You are going to hear those calls, and you are  
3 going to hear defendant Rivera tell you all of those  
4 numbers himself when he is having the telephone  
5 conversations. You are going to hear Mr. Venegas and  
6 defendant Rivera measure their drugs, talk about how much  
7 they have, how much money Mr. Venegas has at any  
8 one time, how much money defendant Rivera needs in order  
9 to buy drugs from a supplier and re-up, that means  
10 getting more drugs.

11           You are also going to hear coded language,  
12 make a ball, again, an eighth of an ounce, an eight ball.  
13 Make it nice or make it chunky. Don't dilute the  
14 methamphetamine. Make it a good quality for the  
15 customer. You are also going to hear the words clean the  
16 house and be on alert. And in the context of the  
17 telephone conversations that you will hear, it will be up  
18 to you to decide what it is they are talking about.

19           Now, on August 6, 2009, defendants Rivera and  
20 Medina didn't just possess an ounce. They possessed  
21 8-ounces, approximately close to \$9,000 worth of drugs  
22 that could be sold on the street. Additionally, you are  
23 going to hear that defendant Rivera had approximately  
24 \$3,000 in cash in his pocket.

25           Now, you are going to hear that defendant

1 Prieto was a part of this transaction as well. You are  
2 going to hear a recorded conversation in which you are  
3 going to learn about defendant Prieto's involvement in  
4 this narcotics delivery. You are going to hear  
5 specifically that defendant Prieto needed some money and  
6 that he decided that he wanted to go do a robbery in  
7 order to make money. And defendant Rivera is going to  
8 instruct him don't do the robbery, I am going to get half  
9 a dead bird. I will give you half an ounce of  
10 methamphetamine to sell to narcotics customers. You will  
11 hear him say half an ounce. Now, he is not going to tell  
12 you what a bird is. There will be witnesses who will  
13 talk to you about what that possibly means and what the  
14 code is.

15 But what you are going to learn is soon after  
16 this conversation, the delivery of approximately  
17 219-grams of methamphetamine, the 8-ounces came to  
18 defendant Rivera at Medina's house. And as I just told  
19 you, defendant Rivera will tell you in recorded  
20 conversations that half an ounce of methamphetamine is  
21 \$550 worth of drugs.

22 So you will hear that defendant Prieto agreed  
23 not to do the robbery in expectation of getting more than  
24 \$500 worth of high quality methamphetamine, and you will  
25 hear him say that he can definitely push that, he can

1 sell that to narcotics customers.

2           You are going to hear the details of the  
3 conversations in the incident that happened on  
4 August 6th, 2009. What you are going to learn on that  
5 date is that a narcotics courier delivered the  
6 methamphetamine to defendant Rivera and Medina's house in  
7 Ontario, California. Officers were waiting for the  
8 delivery, and, soon after it happened, they conducted a  
9 search of the residence as well as the house -- the house  
10 as well as the car in front of the residence.

11           What defendant Rivera had done, and you will  
12 hear that defendant Medina was aware of that as well, is  
13 he hid the narcotics, the close to \$9,000 of narcotics in  
14 a hollowed-out car battery that he hid in this vehicle  
15 outside the house. He hid it in a Tupperware container,  
16 and he put it inside the battery in hopes that, A, nobody  
17 would find it, and even if they looked inside the car,  
18 hopefully, they wouldn't look inside the battery. It was  
19 hidden.

20           When the officers came to the house, they  
21 brought a drug dog, and the drug dog alerted on the car.  
22 They asked -- the officers asked defendant Rivera and  
23 defendant Medina for the key to the car, and you are  
24 going to hear defendant Medina lie. She told the  
25 officers that they did not know where the keys to the car

1 were. You are going to hear, in her own words, tell you  
2 in recorded conversations that she hid the keys to the  
3 car the entire time in her back pocket. And she is going  
4 to tell you why she did that. She is going to tell you  
5 in her own words that she didn't want the officers to be  
6 able to link the drugs to her and defendant Rivera. She  
7 will tell you that.

8 And she will tell that to multiple people in  
9 recorded conversations. She will brag about lying. You  
10 will also hear her talk to the registered owner of the  
11 vehicle. You will hear that the vehicle wasn't actually  
12 registered to her or defendant Rivera even though it was  
13 their vehicle. And you will hear her try and convince  
14 the registered owner of the vehicle to lie to law  
15 enforcement as well so that defendant Rivera and Medina  
16 wouldn't get in trouble for the drugs. You will hear the  
17 registered owner of the vehicle also be a little bit  
18 hesitant because, of course, he doesn't want to get in  
19 trouble either.

20 You are going to learn during this trial that  
21 all of defendant Medina's lies can't remove the fact that  
22 defendant Rivera's fingerprint is on the Tupperware  
23 container that contains the 8-ounces worth of  
24 methamphetamine.

25 After August 7, 2009, defendant Medina began

1 to play a more active role in the drug distribution  
2 operation. You are going to hear her manage individuals.  
3 You are going to hear her tell them to collect from  
4 customers and how much to sell and give them instructions  
5 about not getting caught. And you are also going to hear  
6 about the fact that she was knowledgeable about the drug  
7 distribution operation. You are going to hear her say in  
8 recorded conversation, Chino, talking about defendant  
9 Rivera, has been doing something with his new dude,  
10 meaning his narcotics runner. I am telling you if they  
11 had been watching Chino, they would have hit his spot,  
12 meaning if the officers had been conducting surveillance,  
13 they would have hit this individual's house, searched  
14 this individual's house as well. And officers didn't  
15 search the house, you will hear.

16 You are going to hear that defendant Medina's  
17 role in the drug distribution operation did not begin in  
18 August, 2009. It didn't begin on August 6th. It didn't  
19 begin on August 7th. She was involved prior to that.  
20 You are specifically going to hear a series of recordings  
21 that happened on July 20th, 2009. You are going to hear  
22 defendant Medina tell defendant Rivera on the telephone  
23 that a customer wants drugs.

24 Defendant Rivera will tell defendant Medina  
25 that Mr. Venegas who he refers to as Cisco would meet

1 with the customer later because Mr. Venegas was at the  
2 mall at that time. But he told defendant Medina to tell  
3 the customer that the customer would get extra drugs in  
4 exchange for waiting. You will hear her say that the  
5 customer is going to get hooked up.

6 Then you are going to hear another recorded  
7 conversation between defendant Rivera and Mr. Venegas.  
8 You are going to hear them talk about the fact that  
9 defendant Medina was going to give a drug customer  
10 directions to meet with Mr. Venegas to get drugs, but  
11 this wasn't the first time that this customer had  
12 purchased drugs from Mr. Venegas. This is the customer  
13 that defendant Medina usually gets the narcotics for and  
14 delivers personally to the narcotics customer. However,  
15 on this date, she was going to deliver the drugs  
16 personally or she was going to give the defendant, the  
17 customer directions to meet with Mr. Venegas. So you  
18 will hear defendant Rivera admit in a recorded  
19 conversation that previously defendant Medina delivered  
20 drugs on more than one occasion.

21 You are going to hear that defendant Prieto's  
22 role in the drug operation was not isolated. You will  
23 hear at least three recorded conversations linking him to  
24 the drug operation. On July 29, 2009, defendant Rivera  
25 told a customer that he had bomb methamphetamine,



1 methamphetamine that is good quality.

2           And the customer asked if he should meet with  
3 defendant Rivera at Raul's house, Raul Prieto, defendant  
4 Prieto in order to get the drugs. You are going to hear  
5 the customer actually volunteer that as a location where  
6 to go to get drugs. It wasn't defendant Rivera offering  
7 defendant Prieto's name as an individual. You are going  
8 to hear that the customer was familiar with Raul and  
9 asked if that was the location where they should meet.

10           On August 2nd, 2009, defendant Rivera  
11 instructed Mr. Venegas, his drug runner, to go meet a  
12 narcotics customer across the street from Crook's house.  
13 Again, that is defendant Prieto. And you are going to  
14 hear recorded conversation on August 5th, 2009 where  
15 defendant Prieto offered to help defendant Rivera collect  
16 drug money from a narcotics customer. And during that  
17 conversation, you are going to hear that defendant Prieto  
18 was familiar with who the customer was, had his telephone  
19 number and was prepared to call him from another  
20 telephone line in order to hope, confuse the customer  
21 into answering because the customer was not answering the  
22 telephone.

23           In these calls, you are going to hear for  
24 yourself that defendant Prieto was well aware of who  
25 defendant Rivera's narcotics customers were and how the

1 business operated. And you are going to hear that  
2 defendant Prieto himself sold ecstasy and cocaine and  
3 used some of the same individuals to sell his drugs as  
4 well.

5 So during this trial, you are going to hear a  
6 lot about drugs and the drug business and these  
7 individuals selling drugs.

8 However, as you heard earlier, this is also a  
9 case about a gang. And this case isn't just about the  
10 criminal activities of three defendants working together  
11 to sell drugs and make a lot of money. This is a case  
12 about individuals who ran all the crimes in a city  
13 together, and they made money doing those crimes. You  
14 are going to hear that they made money doing robberies.  
15 They made money selling drugs, just like these defendants  
16 were doing, and they made money doing something called  
17 taxing.

18 And what taxing is is if there is an  
19 individual selling drugs anywhere in the city of Ontario,  
20 they had to pay money to the gang. They either  
21 volunteered by approaching the gang themselves, or the  
22 gang sought them out in order to collect that money.  
23 What you are going to hear is that the Black Angels gang  
24 isn't unique. There is a number of gangs throughout  
25 Southern California who are all aligned with something

1 called the Mexican Mafia, and you are going to learn  
2 during the trial what the Mexican Mafia is. And those  
3 are the leaders of all these street gangs, the Black  
4 Angels gang and you will hear during trial other gangs,  
5 and all these gangs have territories. The Black Angels  
6 gang is the city of Ontario. You are going to hear that  
7 other gangs have territories as well, different cities  
8 that they run. And the reason why it is important to run  
9 a city is because if you run that city -- and you are  
10 going to hear a gang member explain this to you, and you  
11 are going to hear in recorded conversations gang members  
12 talking about this -- if you run the city, you get the  
13 money from the individuals selling drugs in the city.  
14 You get to sell drugs, and you get to tax people. The  
15 gang gets to tax people.

16 And the Mexican Mafia, those leaders, they get  
17 the money for the drugs in that city. You are going to  
18 hear that Armando Barajas was a Mexican Mafia member who  
19 was running the city of Ontario. And you are also going  
20 to hear that defendant Rivera, because he was selling  
21 drugs in Ontario, shared his drug profits with Armando  
22 Barajas. He gave that tax. He taxed himself.

23 You are also going to hear that defendant  
24 Rivera taxed others. And you are going to hear about the  
25 gang's taxation efforts. It isn't just methamphetamine

1 that is involved in this case. You are going to hear  
2 that drug suppliers sold other drugs including heroin,  
3 and you are going to hear about defendant Rivera's  
4 involvement in taxing those heroin suppliers.

5           You are going to hear about Carlos Rivera's  
6 gang membership. He is a member of the Black Angels  
7 gang. He has a tattoo of Ontario, and you are going to  
8 hear that Ontario is spelled with an E for a purpose.  
9 And he has Black Angels across his arms, and you are  
10 going to see defendant Medina's name right below his gang  
11 tattoo. You will hear all about his involvement in the  
12 gang, when he became a member, the fact that he was an  
13 officer in the gang and his involvement in the gang's  
14 criminal activities including taxation.

15           You are going to hear about that from an  
16 individual called David Navarro. David Navarro is also  
17 or was also a member of the Black Angels gang. He is no  
18 longer a member. He is cooperating, and he is  
19 cooperating in exchange for what he hopes will be a  
20 reduced sentence in connection with criminal convictions  
21 that he sustained.

22           What he is going to be testifying about is his  
23 involvement in the gang, his relationship to the  
24 defendants and a number of recorded telephone  
25 conversations during which he has conversations with

1 these individuals, with defendant Medina, with defendant  
2 Rivera, with Armando Barajas, the Mexican Mafia member in  
3 charge of the gang, with narcotics customers who he is  
4 taxing. You are going to hear through these recorded  
5 telephone conversations that he will explain to you how  
6 the gang operates and what these defendants' role is in  
7 that criminal enterprise.

8 He is going to explain to you that you rise  
9 through the ranks of the Black Angels gang. You start  
10 out as an OVS, Onterio Varrio Sur member. That is the  
11 lowest level, and some of the crimes that OVS gang  
12 members commit is tagging. They mark their territory all  
13 throughout the city. And, again, he will explain to you  
14 that the importance of territory is not just a pride  
15 thing. It is a source of income. He will explain to you  
16 how the gang is a business, and one of the most important  
17 elements of that business is the money that is generated  
18 through drug sales in Ontario.

19 He will talk to you about becoming a junior  
20 Black Angel, that is rising through the ranks, and he  
21 will explain to you what he did to become a junior Black  
22 Angel. Mr. Navarro is a criminal and has engaged in  
23 violent crime. That is no secret, and he will tell you  
24 that. And he will tell you what he did to do to rise in  
25 the ranks and eventually become blessed, to get his wings

1 and become not just a full member of the Black Angels  
2 gang but the gang's leader under Armando Barajas.

3 He was the individual who was running the  
4 taxation. He was the president of the Black Angels gang  
5 at the same time defendant Rivera was a Black Angels gang  
6 member. He was an individual who defendant Rivera asked  
7 if defendant Rivera had to pay taxes on his  
8 methamphetamine sale, and you will hear Mr. Navarro tell  
9 you, no, you don't, you can pay directly to Mr. Barajas  
10 because you are part of the gang and you know Mr. Barajas  
11 too.

12 But he will tell you that defendant Rivera and  
13 all his methamphetamine sales were being taxed. You will  
14 also hear recorded telephone conversation where defendant  
15 Medina shares with Mr. Navarro who was at the time the  
16 head of the gang, law enforcement's knowledge of the  
17 criminal activity that had just occurred. She shared  
18 with him the details of what happened and also discussed  
19 with him whether a certain individual may or may not be  
20 cooperating, and that you are going to learn is serious  
21 information. She wanted to let to let Mr. Navarro know  
22 that a drug runner in that city may be cooperating with  
23 law enforcement and may be jeopardizing the criminal  
24 activities of that enterprise.

25 Just again to emphasize the fact that

1 defendant Rivera, you can see him blessed, getting his  
2 wings. You can see the wings spanning over Onterio in  
3 the picture, and you can see the wings on his shoulder.  
4 And you will learn that members of the Black Angels gang,  
5 if you are not a full member of the gang, you can't have  
6 those tattoos. There are serious and violent  
7 repercussions for having those tattoos, and Mr. Navarro  
8 will explain all of that to you.

9 Mr. Navarro will also provide context to the  
10 criminal activities that we heard about earlier. I  
11 talked to you earlier about about the July 22nd, 2009  
12 purchase of a firearm at defendant Prieto's house. Well,  
13 what you are going to learn through Mr. Navarro and  
14 through other recorded telephone conversations is that  
15 this is actually a gang gun.

16 You are going to learn that the gang has  
17 leaders, it has structure, it has meetings and it has  
18 dues. And one of the things those dues are used for is  
19 the purchase of firearms in order to maintain the gang's  
20 authority.

21 Mr. Navarro will tell you that there is  
22 reasons why the gang has guns. One of those reasons is  
23 to aid in drug distribution activity as well as its  
24 taxation efforts.

25 Defendant Rivera, at a gang meeting,

1 volunteered to use the dues of the gang to buy a firearm.  
2 And he actually showed Mr. Navarro a text message picture  
3 of the gun that he was going to purchase at defendant  
4 Prieto's house. And Mr. Navarro took a look at the gun,  
5 and he was a leader of the gang at the time, and approved  
6 it. And defendant Rivera was going to use his own money  
7 and get reimbursed by the gang with the dues.

8 Now, you are going to hear after the gun was  
9 seized by law enforcement as I described, you are also  
10 going to hear about a recorded telephone conversation  
11 where defendant Rivera gets on the phone with Mr. Navarro  
12 and apologizes for losing the gang's gun. He admits not  
13 only that this was a gun, that it was his, but it was a  
14 gun that he intended to use for the benefit of the gang.

15 You are also going to hear additional  
16 information about the July 31, 2009 sale of  
17 methamphetamine to narcotics customer. Yes, Mr. Tolson  
18 and defendant Carlos Rivera had a conversation about what  
19 law enforcement knew about defendant Rivera's drug sales,  
20 but you are also going to hear defendant Rivera admit in  
21 his telephone conversation, I am a Black Angels gang  
22 member, I don't cooperate with law enforcement.

23 During this trial, you are going to hear  
24 evidence both of the specific crimes of these defendants  
25 as well as how each of these individuals helped in the



1 larger picture of the criminal enterprise that was the  
2 Black Angels gang that ran the city of Ontario. Each of  
3 these individuals facilitated not only their own crimes  
4 but the crimes of the gang.

5 At the end of the case, my colleague and I  
6 will return and ask you to find guilty verdicts on all of  
7 the charged counts.

8 MR. WALSH: Good afternoon, ladies and gentlemen.

9 I am Joseph Walsh. I am the attorney for  
10 Jessica Medina who has been sitting next to me during  
11 jury selection and will be sitting next to me during the  
12 trial.

13 Ms. Medina is charged with four offenses.  
14 Count 1 is conspiracy to violate the RICO statute. Count  
15 2 is a substantive RICO violation. Count 5 is a  
16 conspiracy to distribute methamphetamine, and Count 10 is  
17 possession of the methamphetamine that was seized by law  
18 enforcement from a car outside her house on August 6 of  
19 2009.

20 Now, the narcotics offenses are very easy to  
21 understand, but what you will find more difficult is the  
22 concept of this RICO violation. Now, since this is just  
23 the opening statement, I am just going to be talking  
24 about evidence. But I wanted to alert you that there is  
25 two types of conspiracies and two types of offenses that

1 you have to be focusing on during the course of the  
2 trial, and RICO charge which the court will give you in  
3 jury instructions essentially in a nutshell is whether or  
4 not Ms. Medina is guilty of operating a criminal  
5 enterprise through a pattern of racketeering acts, that  
6 is the commission of numerous felonies with the criminal  
7 enterprise over a long period of time.

8 To those four charges, Ms. Medina has pleaded  
9 not guilty, and in the opening statement we are only  
10 allowed to give a summary of what we believe the evidence  
11 will show. And sometimes attorneys in giving an opening  
12 statement where they say the evidence will show this and  
13 that, they make a mistake, and I think that may have  
14 happened during the government's opening statement.

15 And you have to be aware of that fact that in  
16 summarizing what the wiretap calls said and what  
17 Ms. Medina said or what Mr. Rivera said, you are going to  
18 be actually hearing those transcripts, hearing tapes of  
19 tape-recorded telephone calls, intercepted over the  
20 wiretap during the course of the trial. And you will  
21 have transcripts that you can read along to assist you in  
22 listening to those tapes, and you will be the ones that  
23 will have to make the decision concerning what those  
24 calls are stating and whether or not they state what the  
25 government has said in their opening statement.

1           Now, the evidence in this case will show that  
2   Ms. Medina is not a gang member. She is not a member of  
3   the Black Angels gang or the Onterio Varrio Sur gang.  
4   She is not a member of any gang at all. The evidence  
5   will show that on the critical date of August 6th, 2009.  
6   Ms. Medina was living in Ontario, California on Vineyard  
7   Avenue, and she was residing there with Carlos Rivera  
8   which is the co-defendant seated at the back table in the  
9   black shirt.

10           And Ms. Medina was also living there with her  
11   four children in 2009. The ages of her children were 2,  
12   4, 6 and 8. So they were small children that she was  
13   taking care of. They were living in the apartment with  
14   her along with other relatives that were living in the  
15   apartment also and Carlos Rivera who was the father of  
16   two of those children. So the relationship between them  
17   is he is the father of two of her children. And the  
18   evidence will show that there is no gang relationship to  
19   the fact that they are living in the same apartment.

20           The evidence will also show that  
21   Ms. Rivera(sic) has no gang tattoos. There is no  
22   evidence that she participated in any gang meeting or  
23   discussions with other gang members. There is no  
24   evidence that Ms. Rivera sold drugs to anyone in this  
25   case. What did occur was that on August 6, 2009, the

1 police came to her apartment and searched the apartment,  
2 the apartment that she was living there with her children  
3 and with Mr. Rivera.

4 During the course of that search, police  
5 officers found no drugs in the apartment where she was  
6 living. Methamphetamine, however, was seized from a car  
7 that was parked out in front on the street.

8 And police surveillance that day, you will  
9 hear about from the testimony of the officers conducting  
10 the surveillance, will show that Ms. Medina was not seen  
11 driving the car. She wasn't seen going into the car.  
12 She is never seen being a passenger on the car on the  
13 days leading up to the August 6 search of the car  
14 discovering the contraband.

15 And before the search, the law enforcement  
16 were listening to telephone conversations of a wiretap of  
17 a telephone that Mr. Carlos Rivera was using. And it was  
18 during the listening in on those telephone calls,  
19 conversations that led the officers to focus on the  
20 residence and to conduct the search of the apartment and  
21 the car.

22 But the evidence will show that the wiretap  
23 calls overheard on Mr. Rivera's cell phone that were used  
24 in order to focus the officers in the direction of the  
25 apartment contained no conversations of Jessica Medina.

1 There is no conversations on that telephone prior to  
2 August 6, 2009. So nothing on those calls establish her  
3 involvement in any drug trafficking or anything to do  
4 with the drugs that were seized on August 6.

5 Now, on that date after the search when they  
6 found the drugs that were in the car, the police  
7 confiscated the drugs, they placed Carlos Rivera under  
8 arrest, but they didn't arrest Jessica Medina. She was  
9 allowed to remain at the apartment. And they left the  
10 cell phone of Carlos Rivera in the apartment so that  
11 Ms. Medina would have it available to use and make calls.

12 But, unknown to Ms. Medina, this was the same  
13 cell phone that had an unexpired wiretap on it so there  
14 was an additional two weeks of court authorization to  
15 continue listening into the cell phone. So the police  
16 continued to listen in to conversations over the cell  
17 phone while it was being used by Jessica Medina.

18 And some of those calls do show that Jessica  
19 Medina was very concerned about the arrest of Carlos  
20 Rivera. She is very concerned that he had been taken to  
21 jail. She was concerned about how much time that he was  
22 going to be receiving as a result of his arrest. She  
23 told other people that he was arrested because drugs were  
24 found in the car, but there is no conversations over the  
25 telephone that show that she had any involvement with the

1 drugs that were found in the car.

2           There is no conversations over these  
3 telephone -- these telephone intercepts during the next  
4 two-week period of the intercept indicating that she was  
5 in possession of the drugs or that she was in a  
6 conspiracy to sell those drugs or that she had anything  
7 to do with acquiring those drugs or planning to sell them  
8 in the future. The telephone calls also do not indicate  
9 that she entered into any agreement in order to violate  
10 the RICO statute by joining the gang or joining a  
11 criminal enterprise in order to operate it through a  
12 pattern of racketeering activity.

13           And, essentially, in conclusion, the evidence  
14 will show, we believe, that at the end of the case that  
15 Ms. Medina is not guilty of all four of the charges that  
16 are charged against her.

17           MR. NAVARRO: Good afternoon, ladies and  
18 gentlemen.

19           My name is Angel Navarro. I represent Carlos  
20 Rivera. He is seated in the back row with me. We are  
21 both wearing black shirts today as was pointed out  
22 earlier.

23           Now, during this trial, you are going to hear  
24 a lot of testimony about my client, about Carlos Rivera.  
25 You are going to hear a lot of wiretaps about my client

1 Carlos Rivera. You are going to hear him talk to people.  
2 You are going to hear him talk to a fellow gang member  
3 who became a cooperator for his own benefit. We will get  
4 to him during the trial.

5           You are not going to hear us deny that my  
6 client is a member of the Black Angels street gang in  
7 Ontario. You are not going to hear us deny that my  
8 client was intercepted over the phone talking about  
9 narcotics and that he was subsequently arrested for  
10 narcotics. You are not going to hear us deny any of  
11 these things.

12           What we are going to challenge during this  
13 trial is that his membership in the gang somehow involved  
14 his wife or his cousin. You are going to hear us  
15 challenge the government's case with regard to this  
16 so-called RICO conspiracy. The government made -- showed  
17 you a nice pyramid in their opening statement which  
18 linked the Mexican Mafia to the Ontario Black Angels.

19           You will not hear or see, I believe, any  
20 evidence of any phone calls between my client and the  
21 alleged leader of the Ontario Black Angels, Mr. Armando  
22 Barajas. You won't see any phone calls. You will hear  
23 testimony from government experts and police officers who  
24 will say that they were listening to my client's phone  
25 calls over a period of time even after he was arrested.

1 You will hear testimony that they were looking -- he was  
2 one of many people that was being investigated. And you  
3 won't hear any evidence that he was talking to the  
4 so-called higher ups within the gang about paying money  
5 to them.

6 The only evidence you will hear about that  
7 will come from a cooperator, a person who has every  
8 interest to benefit himself, betray his friends. That is  
9 not for me to decide. That is for him to decide.

10 Again, so this case really will have a lot to  
11 do about evidence that just simply won't be there about  
12 any client's involvement with the higher-ups of the Black  
13 Angels.

14 As I indicated to you when I spoke to you  
15 briefly earlier today, when the person walks into court,  
16 they walk in presumed innocent. If you are asked now  
17 whether you would find any of three defendants guilty or  
18 not guilty, you would have to find them not guilty. The  
19 government has the burden of proof. That is a very  
20 unique feature of our system which a few other systems  
21 have, and we take that very seriously.

22 Again, as I stated to you, we are not denying  
23 that my client is a gang member. We can't deny those  
24 tattoos. They speak for themselves, and I ask you don't  
25 judge my client for being a gang member. He has chosen a



1 path from a very young age, and that path has  
2 consequences. We know that, and he knows that.

3 As I indicated to you, you are not going to  
4 hear any evidence of my client talking to so-called  
5 higher-ups within either the Mexican Mafia or the Black  
6 Angels because the evidence is just not there.

7 Now, what we expect to demonstrate during this  
8 trial is that, in fact, when my client was arrested, he  
9 was living with his common law spouse. There were  
10 four young children in the home, and they were raising  
11 these children. And I don't want you to judge my client  
12 because he chose a different way of earning money to  
13 assist his family. And if he has to be judged for that,  
14 so be it. But don't judge his wife for that, and don't  
15 judge his cousin for that.

16 There is no evidence, I think, as Mr. Walsh  
17 pointed out, you will hear no evidence whatsoever that  
18 either before August 6th, 2009 or even after those 15  
19 days expired on the wiretap that there was additional  
20 wiretaps of Ms. Medina. There was nothing of that  
21 nature. You will hear a lot of evidence about them being  
22 a couple, and because they -- a wife is aware of what her  
23 husband does doesn't necessarily make her a  
24 co-conspirator. And any of you who have relationships  
25 whether you are married or just common law relationships

1 would probably understand that.

2 At the end of the case I am going to come back  
3 and argue. This is a very, very difficult case. And I  
4 am going to argue my case to you at the end when all the  
5 evidence has been presented. Thank you.

6 MR. CEPHAS: Good afternoon, again.

7 My name is Dana Cephas, and I represent Raul  
8 Prieto. As the other attorneys in the court informed  
9 you, Mr. Rivera is facing six charges. Ms. Medina is  
10 facing four charges. My client is facing two charges.

11 Mr. Rivera and Ms. Medina are charged with  
12 racketeering acts in violation of RICO. My client is  
13 not. Mr. Rivera and Ms. Medina are charged with  
14 possession of methamphetamine with intent to distribute.  
15 My client, Mr. Prieto, is not.

16 My client is charged with conspiracies, very  
17 vague and general term, conspiracy to distribute drugs,  
18 conspiracy to violate RICO. Nothing more than that.

19 You will see during this case that my client  
20 has known Mr. Rivera for a long time. They grew up in  
21 the same neighborhood. You will see that if you grew up  
22 on my client's street, you would know many gang members.  
23 You might not be a gang member. Some are. Some aren't.  
24 But if you grow up there, if you grow up on that street  
25 in Ontario, if any of you had grown up on those streets,

1 you would know some gang members. Some of them would be  
2 your friends. Some of them might not be your friends.  
3 And you might associate with those friends despite  
4 knowing some of them commit crimes.

5           You will see that Mr. Prieto was not a member  
6 of OVS. He was not a member of Junior Black Angels gang.  
7 He was not a member of Black Angels. He was a friend  
8 with a person who was a Black Angel. He was friends with  
9 a person who spent nights in his house when they were  
10 both children. You will learn that Mr. Rivera treats my  
11 client's mother like his own mother. He refers to her as  
12 mom. They are very close friends. They were good  
13 friends as boys.

14           What you will not hear is dozens and dozens  
15 and dozens of phone calls among the thousands of phone  
16 calls that were recorded in this case indicating that my  
17 client was a gang member, that he was engaged in Black  
18 Angels business. That he was in any way assisting or  
19 attempting to assist with Black Angels.

20           You will probably see many, many pictures of  
21 defendants or I should say co-conspirators who have Black  
22 Angels tattoos, who have OVS tattoos, who have Angelitos  
23 Negros tattoos. You will not see any photos like that  
24 with Mr. Prieto because he has no such tattoos.

25           Mr. Prieto, however, is a street artist, not

1 graffiti, but he is a street artist. And he uses the  
2 tools of the trade, spray cans, to present his art. You  
3 will not see evidence of him painting Black Angels  
4 graffiti or OVS graffiti or Angelitos Negros graffiti.

5 At the end of this case, you will see that my  
6 client is sitting here today because he is a friend,  
7 because he is a good friend with a Black Angels member.

8 Thank you.

9 THE COURT: All right. Thank you, Mr. Cephas.  
10 Tell you what. Let's take 10. And the government can  
11 line up your first witness when we get back. Have him on  
12 the stand ready to go. Okay. Remember the admonition,  
13 ladies and gentlemen.

14 (Recess from 2:52 to 3:07)

15 (The following proceedings were held in the  
16 presence of two members of the jury:)

17 THE COURT: All right. What is the nature of your  
18 problem, sir?

19 THE JUROR: So my wife and I share a car. She  
20 works. I work virtual. So I don't have a car to get  
21 here. Sometimes, depending on her schedule, I can be  
22 here like this morning. She drove me to the train  
23 station, and I took the train, took the subway and ended  
24 up getting here.

25 But everyday she can't take me to the train

1 station. So that is the issue.

2 THE COURT: Number 9. I would have appreciated  
3 you saying something.

4 THE JUROR: You were so -- it seemed like you  
5 didn't want to hearing something like that.

6 THE COURT: I don't want to hear lameness. This  
7 isn't lame. Where do you live?

8 THE JUROR: Thousand Oaks.

9 THE COURT: You don't want to stay here in the  
10 city, do you?

11 THE JUROR: Not for two weeks.

12 THE COURT: What about a week-and-a-half?

13 THE JUROR: It is still a long time. I don't  
14 really want to do it.

15 THE COURT: All right. I am going to excuse you.  
16 Okay.

17 THE JUROR: Okay.

18 THE COURT: All right. Goodbye. Thank you.

19 And you, sir, what is your name.

20 THE JUROR: Anthony Tran.

21 THE COURT: Mr. Tran.

22 THE JUROR: Yes.

23 THE COURT: And the nature of your problem was?

24 THE JUROR: The way my wife and I schedule our  
25 work schedules so that I can drop my kids off in the

1 morning. Okay. And the school won't allow us to drop  
2 our children off before a certain amount of time.

3 THE COURT: Okay. And what time is that?

4 THE JUROR: I believe that is 7:45. I'm sorry.  
5 7:55. So by the time I drop them off and make it to  
6 work, I typically get to work which is right here  
7 downtown around 9:00 o'clock. With traffic, I  
8 actually --

9 THE COURT: Where is the school?

10 THE JUROR: It is Arcadia.

11 THE COURT: All right. And you didn't want to  
12 mention this earlier?

13 THE JUROR: No. Because the lady was talking  
14 about the child care, and you said well --

15 THE COURT: It was a 20-year-old.

16 THE JUROR: I understand.

17 THE COURT: There was a difference; right?

18 THE JUROR: And you mentioned something about  
19 scheduling of the jury that the jury can discuss during  
20 in the jury room. So I thought maybe there is a  
21 flexibility there in terms of start time and whatnot.  
22 You say, okay, fine, if that is something that I can work  
23 with.

24 THE COURT: So they wanted to do 8:00 o'clock, you  
25 wanted to do 10:00 o'clock?

1 THE JUROR: I said I can be here around 9:30.

2 THE COURT: Your life was threatened.

3 THE JUROR: No. No. I'm sorry.

4 THE COURT: Go away. Thank you, sir.

5 THE JUROR: Thank you. I really apologize,  
6 thanks.

7 MS. EL-AMAMY: May we just note on the record that  
8 the government does not object to dismissing those  
9 two jurors. I just wanted to confirm that the defense  
10 did not object to that as well.

11 MR. WALSH: No objection.

12 MR. CEPHAS: No objection.

13 MR. NAVARRO: No objection.

14 THE CLERK: So number 15 becomes number 9 now?

15 THE COURT: Whatever you wish because 14 is now  
16 gone. 15 is now 9. Whatever you say.

17 THE CLERK: No. Number 15.

18 MR. CEPHAS: How about we let them get in there  
19 seats and then move them once they are here.

20 THE COURT: No. I want the lawyers to have some  
21 input on this because this has been a mess. Let them  
22 pick who they want to go to Number 9.

23 (The following proceedings were held in the  
24 presence of the jury:)

25 THE CLERK: Calling CR 10-351, United States of

1 America, versus Carlos Rivera, et al.

2 Counsel, may I have your appearances please.

3 MS. EL-AMAMY: Good afternoon, again, your Honor.

4 Reema El-Amamy and Michael Dore on behalf of the United  
5 States.

6 MR. WALSH: Good afternoon, your Honor. Joseph  
7 Walsh on behalf of Jessica Medina present to my left.

8 MR. CEPHAS: Dana Cephas on behalf of Raul Prieto  
9 who is present.

10 MR. NAVARRO: And, your Honor, Angel Navarro  
11 present with my client Carlos Rivera seated to my left.

12 THE COURT: All right. Good. And the jury is  
13 present.

14 Now, we, over the break, we have let two,  
15 well, a juror and an alternate go at their request. So,  
16 Ms. English, are you going to shuffle around. Let's fill  
17 Number 9, then, with alternate number 15.

18 MR. CEPHAS: No objection.

19 THE COURT: Okay.

20 MR. DORE: Your Honor, I am sorry. Wouldn't we  
21 move one of the existing alternates?

22 THE COURT: Yes. You are right.

23 THE CLERK: I asked.

24 THE COURT: No. You are right. Don't let me get  
25 involved in these things.



1 (The jurors were moved.)

2 THE COURT: Okay. That's right.

3 THE COURT: We are going to try it with  
4 two alternates; right?

5 MR. CEPHAS: Yes, your Honor.

6 MR. WALSH: Yes, your Honor.

7 MR. DORE: Yes, your Honor.

8 MR. NAVARRO: Yes, your Honor.

9 THE COURT: Okay. Excellent. Now, your next  
10 witness.

11 MR. DORE: Your Honor, the government calls Deputy  
12 Erden Gorgulu.

13 (The witness was sworn.)

14 THE CLERK: Please be seated. Please state your  
15 name and spell it and speak slowly for the record.

16 THE WITNESS: Sure. My name is Erdem Gorgulu,  
17 E-R-D-E-M, G-O-R-G-U-L-U.

18 THE COURT: Okay. Mr. Dore.

19

20 DIRECT EXAMINATION

21 BY MR. DORE:

22 Q Sir, where are you currently employed?

23 A I am employed as a deputy sheriff with the San  
24 Bernardino County Sheriffs' Department.

25 Q And when did you start working for the San

1 Bernardino County Sheriffs' Department?

2 A It would be July of 2008.

3 Q Where were you assigned when you started with the  
4 San Bernardino County Sheriffs' Department?

5 A I was assigned to Central Detention Center in  
6 downtown San Bernardino.

7 Q And what was your position when you started there?

8 A I was a floor deputy.

9 Q And what is your current position?

10 A I am currently assigned to patrol division in  
11 Morongo Basin.

12 Q How long have you been assigned to the patrol  
13 division?

14 A I have been on patrol since January of this year.

15 MR. DORE: Your Honor, may I ask the courtroom  
16 deputy to provide the witness with a copy of Exhibit 29?

17 Your Honor, with the court's permission, may I  
18 approach the deputy with a list of my exhibits for this  
19 witness. I apologize for not doing that sooner.

20 Q Deputy, could you please take a look at that  
21 photograph marked as Exhibit 29.

22 A Yes.

23 Q Do you recognize the person in that photograph?

24 A Yes, I do.

25 Q And have you personally spoken with the man in that

1 photograph marked as Exhibit 29?

2 A Yes, I have.

3 Q And who is the person in that photograph marked as  
4 Exhibit 29?

5 A Person on this photograph is Mr. Carlos Rivera.

6 MR. DORE: Your Honor, the government moves to  
7 admit Exhibit 29 into evidence.

8 THE COURT: Any objection?

9 MR. WALSH: No objection.

10 MR. CEPHAS: No objection.

11 MR. NAVARRO: No objection.

12 THE COURT: It is admitted.

13 MR. DORE: Your Honor, permission to publish the  
14 exhibit?

15 THE COURT: As soon as it is admitted, you can do  
16 whatever you wish.

17 MR. DORE: Thank you, your Honor.

18 Q So Deputy Gorgulu, this is Carlos Rivera?

19 A Yes, sir.

20 Q And approximately how many times have you spoken  
21 with Mr. Rivera?

22 A I never counted but probably hundreds, thousands of  
23 times.

24 Q And do you see Carlos Rivera in the courtroom  
25 today, sir?

1 A Yes, I do.

2 Q Could you please identify him by clothing that he  
3 is wearing?

4 A He is sitting on the second counsel table to my  
5 right wearing a black shirt and wearing glasses.

6 THE COURT: The record will reflect --

7 THE WITNESS: With the long hair.

8 THE COURT: And not wearing a tie?

9 THE WITNESS: He is not wearing a tie.

10 THE COURT: All right. The record will reflect he  
11 has identified the defendant Rivera.

12 Q BY MR. DORE: And, Deputy Gorgulu, do you know Carlos  
13 Rivera to go by any nicknames?

14 A Yes, I do.

15 Q And what nicknames are those?

16 A I know him to go by two different nicknames.  
17 One is Chino. One is Reals.

18 Q Thank you.

19 Now, could you please take a look at what has  
20 been marked as Exhibit 1 and Exhibit No. 2.

21 A You said exhibit 1?

22 Q Correct. 1 and 2.

23 A Exhibit 1, yes.

24 Q And can you also look at Exhibit 2, please?

25 A Sure. Yes.

1 Q Do you recognize the tattoos in those photos marked  
2 as Exhibits 1 and 2?

3 A Yes, I do.

4 Q And whose tattoos are those?

5 A These tattoos belong to Mr. Rivera.

6 Q And do the photos of those tattoos fairly and  
7 accurately depict the tattoos as you have seen them on  
8 Mr. Rivera?

9 A Yes, they do.

10 MR. DORE: Your Honor, government moves to admit  
11 Exhibits 1 and 2 into evidence?

12 THE COURT: Objection?

13 MR. WALSH: No, your Honor.

14 THE COURT: Admitted.

15 Q BY MR. DORE: Just to be clear, Deputy, this  
16 photograph No. 1, while we can't see the top of the  
17 individual's face, who is this person?

18 A This picture is Mr. Rivera's chest.

19 Q And who is this person in Exhibit 2, sir?

20 A He is Mr. Rivera.

21 Q Looking at this photograph here, Exhibit 2, have  
22 you seen Mr. Rivera wear glasses before?

23 A I have seen him wear glasses, not exactly the ones  
24 that are in the picture probably, but I have seen him  
25 wear glasses different times.

1 Q Thank you. Could you please take a look at what  
2 has been marked as Exhibit 2, photograph in that folder  
3 please.

4 A Sure. Yes.

5 Q And do you recognize the person in that photograph  
6 marked as Exhibit 27?

7 A I do.

8 Q Have you personally spoken with the man in that  
9 photograph?

10 A Yes, I have.

11 Q And who is this person?

12 A This gentleman is Mr. Raul Prieto.

13 MR. DORE: Your Honor, the government moves to  
14 admit what has been marked Exhibit 27 into evidence.

15 MR. WALSH: No objection.

16 THE COURT: It will be admitted.

17 Q BY MR. DORE: So this is Raul Prieto; is that correct?

18 A That is correct.

19 Q And do you see Mr. Prieto in the courtroom today?

20 A Yes, I do.

21 Q And could you please identify him by an article of  
22 clothing that he is wearing?

23 A He is sitting on the first counsel table to my far  
24 right wearing a gray shirt, no tie, buzz cut hair and  
25 facial hair.

1 THE COURT: All right. The record will reflect  
2 that he has identified defendant Prieto.

3 Q BY MR. DORE: And, Deputy, do you know Raul Prieto to  
4 go by any nicknames?

5 A Yes, I do.

6 Q And which nicknames are those?

7 A I know him to go by the name Crook.

8 Q In your experience as a deputy, have you seen  
9 Carlos Rivera and Raul Prieto together, speaking to  
10 one another? I'm sorry.

11 A Yes, I have.

12 Q And based on your observations, did it appear to  
13 you that Mr. Rivera and Mr. Prieto knew each other at  
14 that time?

15 A Yes, I do.

16 Q And approximately when was that when you saw them  
17 speaking to one another?

18 A It was during their time that they were housed at  
19 Central Detention Center, multiple times I saw him  
20 talking.

21 Q I'm sorry, sir. Approximately what year would you  
22 say that was?

23 A It would be 2009, 2010.

24 Q Thank you. Could you please take a look at the  
25 photographs marked as Exhibits 238 to 248?

1 A Yes. You said 238 and 48?

2 Q 238 through 248, those ten folders. Could you just  
3 take a moment to take a quick look at those please.

4 A I sure will.

5 Yes, sir.

6 Q Do you recognize those photographs?

7 A I do.

8 Q And how do you recognize them?

9 A Because I took those photographs.

10 Q And where did you take those photographs?

11 A I took those photographs at Central Detention  
12 Center.

13 Q And do those photographs fairly and accurately  
14 depict what you witnessed at that time that you took  
15 those photographs?

16 A Yes, they do.

17 Q And approximately when did you take those  
18 photographs?

19 A Mid October.

20 MR. DORE: Your Honor, the government moves into  
21 evidence Exhibits 238 through 248?

22 THE COURT: All right. They will be admitted.

23 MR. CEPHAS: Objection to these. Excuse me, your  
24 Honor. Objection to the extent a few of the photographs  
25 contain what I would refer to as hearsay, specifically



1 246, 247, 248.

2 MR. DORE: Your Honor, may I ask some questions on  
3 foundation? Or, I apologize, your Honor.

4 THE COURT: Admitted for the truth of? Offered  
5 for the truth of? I don't even know what this says.

6 MR. CEPHAS: Well, I don't believe they should be  
7 admitted at this point, then, your Honor, because based  
8 on some interview notes, I don't know if they are going  
9 to be offering them for the truth of the matter asserted.

10 THE COURT: Overruled.

11 Q BY MR. DORE: Sir, can you please take a look at  
12 Exhibit 238?

13 A Yes, sir.

14 Q And what is this that we are looking at here,  
15 Exhibit 238?

16 A What we are looking at here, from the inside of the  
17 dayroom area of a housing unit to the door of it. It  
18 slides from left to right closing it.

19 Q And did you take any pictures in this area depicted  
20 as Exhibit 238, this area shown here?

21 A Yes. I did take that picture. Is that what you  
22 are asking? If you can rephrase it.

23 Q Let me put up Exhibit 239 here. Do you recognize  
24 this photograph Exhibit 239?

25 A Yes, I do.

1 Q And can you please read what it says that you  
2 photographed there in that photograph marked as Exhibit  
3 239?

4 A On the top line, it says OBA's. Want me to  
5 continue down the line?

6 Q Yes, please.

7 A Second line says Widget and the third one says  
8 Lokie, and the fourth one says Lazy and the last one says  
9 Reals.

10 MR. CEPHAS: Objection, your Honor. Speculation,  
11 foundation.

12 THE COURT: I am going to overrule it, and the  
13 jury can make up its own minds as to what they think  
14 those letters depict.

15 Q BY MR. DORE: And you were standing face-to-face with  
16 these letters on the wall when you took this picture;  
17 correct?

18 A Yes, I was.

19 Q And in your experience working at the Central  
20 Detention Center, are you familiar with someone who goes  
21 by the nickname Widget?

22 A I do. Yes.

23 Q Are you familiar with someone who goes by the  
24 nickname Lokie?

25 A Yes, I am.

1 Q Are you familiar with someone who goes by the  
2 nickname Lazy?

3 A Yes, I do.

4 Q And are you familiar with someone who goes by the  
5 nickname Reals?

6 A Yes, I do.

7 Q And who is the person who goes by the nickname  
8 Reals, sir?

9 A That would be Mr. Carlos Rivera.

10 Q Could you take a look, please, at Exhibit 242.  
11 Where was this photograph taken?

12 A This photograph is at the door of a single man  
13 cell. There is what we call the tray door where we,  
14 three times a day, when they get their food tray, this is  
15 the little opening on the door where we slide the tray in  
16 so it is the flat part of it.

17 Q And you were standing looking at this writing when  
18 you took the picture; right?

19 A Yes, I was.

20 Q And what does it say that you read there on that  
21 tray?

22 A In the middle of the screen, it says Ontario, OBS.

23 Q And is this written into the tray? What are we  
24 looking at here as far as these markings on the tray?  
25 How did they get there?

1 A The tray door --

2 MR. CEPHAS: Objection. Speculation. Foundation.

3 THE COURT: Sustained.

4 Q BY MR. DORE: Deputy, was this writing like using a  
5 pencil to put these letters into that tray?

6 MR. CEPHAS: Same objection.

7 THE COURT: Overruled.

8 THE WITNESS: No, it wasn't.

9 Q BY MR. DORE: And could you see or feel that there  
10 was an indentation to make those letters in that tray?

11 A Yes. You could feel them.

12 Q Let's take a look, please, at Exhibit 246, 247 and  
13 248. Are those all the same thing?

14 A They are all the same.

15 Q Okay. So let's start with Exhibit 247, please.

16 A Sure.

17 Q Where did you take this picture?

18 A This picture, I took this picture from inside of a  
19 cell, single man cell when you are looking out from  
20 inside the cell. That is above the sliding gate. There  
21 is a flat little panel, metal panel that is right above  
22 it. So only the person inside the cell could see it  
23 unless you went inside the cell and looked above.

24 Q And were you able to read the writing on that,  
25 depicted in that picture when you took it?

1 A I was able to read most it. I was trying to get  
2 the reflection of the flash out of the pictures. That is  
3 why I took three of them.

4 Q And are you familiar with any person who had used  
5 that cell, that location where you found this writing?

6 A Yes, I am familiar.

7 Q And whose cell was this where you found this  
8 writing?

9 A This cell was occupied by Mr. Steven Vega.

10 Q And did you know Mr. Vega to go by any nickname?

11 A Yes. He goes by the nickname Widget.

12 Q Now, looking at this photograph, Exhibit 247, can  
13 you read what it says in the last three lines there that  
14 you photographed in that writing?

15 A Last three lines.

16 Q At the bottom?

17 A Very last, I can easily say it is Sunkist. And the  
18 one above it is Los Black Angels. The one above it says  
19 South Side Ontario.

20 Q Now, when you took this photograph, and I realize  
21 it is harder to see in the photograph than when you were  
22 standing across from it; is that right?

23 A That's right.

24 Q So when you were standing there, you were able to  
25 read what was on that wall; correct?

1 A Sure. Because there was no flash or reflection on  
2 it.

3 Q And there is writing above that South Side Ontario  
4 that you just said. What is that writing? What does  
5 that say, not word for word, but what are we looking at  
6 there?

7 A We are looking at somewhat of a roll call of all  
8 the different members of that particular group, and their  
9 names listed there which they do for their reasons.

10 MR. CEPHAS: Objection. Speculation. Foundation.

11 THE COURT: What are you objecting to.

12 What they do for their reasons?

13 MR. CEPHAS: He essentially described why those  
14 names are there. I don't know that he knows when they  
15 were written, why they were written. I think it is  
16 outside the scope of his personal knowledge.

17 THE COURT: I am going to let the answer stand  
18 because he basically says it is written for their  
19 personal reason.

20 All right. Go ahead.

21 Q BY MR. DORE: Do you recognize any of the names that  
22 were listed on that writing there on that wall above the  
23 words Los Black Angels?

24 A I do recognize some of them.

25 Q And can you -- which ones do you recognize?

1 A Let's see. We have Crook on the third line. Very  
2 last. We can easily read that.

3 Q And I just put a red mark on the screen. Is that  
4 where the word Crook appears; is that correct?

5 A That is exactly, yeah, that line.

6 Q All right. Please continue.

7 A Before that, to his left, there is Termite, and  
8 there is one line below, there is Youngster, Capone,  
9 Scrappy, very last on the fourth line.

10 Q Now, if I could show you another one with a  
11 different flash. It might be a little easier to see.

12 A Sure.

13 Q Looking here at what has been marked Exhibit 248,  
14 is this the same writing as what we just saw on Exhibit  
15 247?

16 A Yes. It is the same writing.

17 Q Now, you see I put a red mark on the screen towards  
18 the top left of Exhibit 248. Do you see that?

19 A Yes, I do see that.

20 Q And is there a name next to that dot on that screen  
21 that I have just put there?

22 A Yes, there is.

23 Q And what name is that?

24 A That name is Reals.

25 Q Now, had you ever seen Mr. Prieto writing anything

1 on the wall when you were at CDC?

2 A I have.

3 Q And what did you see him writing?

4 A One time I saw him write Crooks and underneath  
5 Ontario.

6 Q I'm sorry. Was it Crooks with an S or was it  
7 Crook?

8 A I really don't remember exactly, but it was either  
9 Crook or Crooks. Sometimes they would use an S like  
10 Reals. They would go either way. They would answer to  
11 both variations of the same name.

12 Q And you saw Mr. Prieto writing that on the wall of  
13 the CDC?

14 A Yes, I did.

15 Q And CDC being?

16 A Central Detention Center, yes.

17 MR. DORE: No further questions, your Honor.

18 THE COURT: All right. Cross.

19

20 CROSS-EXAMINATION

21 BY MR. NAVARRO:

22 Q Good afternoon, sir.

23 A Good afternoon, sir.

24 Q I want to take you back to the earlier exhibits,  
25 the ones of the tattoos of my client if you don't mind.



1 A Sure.

2 Q I believe those were Exhibits 1, Exhibit 2. Do you  
3 have those in front of you?

4 A Yes, I do.

5 Q Now, did you take those photographs?

6 A No, I didn't.

7 MR. NAVARRO: Sorry, your Honor. Trying to get  
8 all this organized. I am doing quite the opposite. And,  
9 your Honor, I believe these have been published already.

10 Q Do you see that photograph I have placed on the  
11 overhead?

12 A Yes, I do.

13 Q Now, if I could have, it says Onterio across his  
14 chest; correct?

15 A Yes.

16 Q Now, at the bottom, it says -- what does it say  
17 right here where I am pointing with my pen? Can you read  
18 that?

19 A I want to say the first letter is a T.

20 Q Could it be Jessica?

21 A Could be Jessica. Yes.

22 Q What about on the other part of where it says  
23 Leena?

24 A Leena.

25 Q What about here? Does it say Navaeh?

1 A It looks like it. Yeah. Navaeh.

2 Q Do those appear to be names?

3 A That is what they do.

4 Q Do they appear to have any gang connection to the  
5 Black Angels?

6 A I wouldn't guess so.

7 Q And have you seen other inmates in your custody who  
8 have tattoos of family members?

9 A I have, yes. Pretty common. Correct.

10 MR. DORE: No foundation. Facts not in evidence.

11 THE COURT: Overruled.

12 Q BY MR. NAVARRO:Is that pretty common?

13 A People tattoo, yes, names on their bodies.

14 Q And it is pretty common to see those while they are  
15 in custody; correct?

16 A Yes.

17 Q You see inmates without shirts on a regular basis;  
18 correct?

19 A Yes, I do.

20 Q Now, I believe you have Exhibits 238 through 248 as  
21 well.

22 A 38 and 39?

23 Q Just look at 238 first. Do you have that in front  
24 of you?

25 A I sure do.

1 Q Now, you testified this is a single man cell;  
2 correct?

3 A No.

4 Q Where is this at?

5 A This actually is the inside of a dayroom area where  
6 when we allow them access to the tier of their housing  
7 unit, this is where they got their hot water to make  
8 their coffee and soup, the food items.

9 Q I'm sorry. Go ahead.

10 A No.

11 Q It is a common area?

12 A This one is a common area, yes.

13 Q So behind it, there would be tables?

14 A To my left when I am taking this picture, there is  
15 a picnic bench type table with couple of chairs.

16 Q Okay. Now, Exhibit 239 which was previously  
17 admitted, this appears to be some kind of gang writing;  
18 correct?

19 A This is what it appears like. Yes.

20 Q Now, you took this photograph when?

21 A I did take this, like I said, mid October. Looking  
22 at the date, it is October 19th of this year.

23 Q Did you see who wrote this on the wall?

24 A I didn't.

25 Q And it says OBA's on the top; correct?

1 A That is correct.

2 Q And it says Widget?

3 A Yes.

4 Q Lokie?

5 A Lokie.

6 Q Lazy II?

7 A Lazy. It could be a junior.

8 Q And Reals II?

9 A Reals.

10 Q And there is the Number II next to it; correct?

11 A Yes.

12 Q Was anyone disciplined for that incident if you are  
13 aware for writing on the wall?

14 A Not that I am aware of. Not for this.

15 Q Now, Exhibit 240 which was previously admitted, is  
16 this a single man cell?

17 A This is a single man cell from the outside, yes.

18 Q How does someone get to go to a single man cell?

19 A You mean like why are they in a single man cell?

20 Q Yes.

21 A Because of their classification.

22 Q And what type of classification do you have to have  
23 to go into a single man cell?

24 A In order for you to be able to or in order for you  
25 to be assigned to a single man cell, you either have to

1 be admin segregation which based on your priors and your  
2 involvements in your prior correctional space, then you  
3 are deemed to be, you accumulate enough discipline points  
4 to classify you as an admin segregation or high security  
5 where you are somebody, you are an important figure  
6 within the prison population community. Therefore, you  
7 get isolated for that.

8 Q And this -- do you know who was assigned to the  
9 cell at that time that you took the photograph?

10 A When I took the photograph, there was a gentleman  
11 by the name Jason Hasso.

12 Q Is he anybody related to this case?

13 A No, he is not.

14 A He is from Northern California if I am remembering  
15 correctly.

16 Q And this photograph here, I believe it is 241?

17 A 241.

18 Q Is this within that cell or no?

19 A To be honest with you, I really don't exactly  
20 remember, but if we are going in order, after I made  
21 entry into that cell, that is where I took these  
22 photographs from within the cell.

23 Q And again you did not witness when this was done?

24 A No. I did not. I just took the pictures.

25 Q Would it be a correct statement to say -- sorry,

1 your Honor.

2 Do you see gang writing inside of the jail on  
3 a regular basis?

4 A You see them all the time.

5 Q All the time; correct?

6 A Uh-huh.

7 Q If you go to 247. Now, this photograph came from  
8 an admin seg cell; correct?

9 A Admin segregation cell, right.

10 Q Which means administrative segregation cell?

11 A Yes.

12 Q And you testified that at some point Mr. Steven  
13 Vega was inside of that cell; correct?

14 A He stayed in the cell for a long period of time.

15 Q Now, do you know when this tagging took place?

16 A I do not know the exact time or date.

17 Q Do you know a date when it took place?

18 A I don't know.

19 Q Now, do you know if everybody in this list whose  
20 name is listed here is a member of the Black Angels gang?

21 A You asking my opinion?

22 Q No. I am asking you if you know.

23 A Based on my training and experience, that is what I  
24 would assume that all these names belong to that gang.

25 Q So you are assuming they belong to the gang?

1 A I am not assuming. Based on my training and  
2 experience, I believe these names belong to this gang.

3 Q Now, have you ever testified as an expert on the  
4 Black Angels?

5 A No, I haven't.

6 MR. NAVARRO: No further questions, your Honor.

7 THE COURT: Redirect?

8 MR. CEPHAS: Your Honor?

9 THE COURT: Oh. I'm sorry.

10

11 CROSS-EXAMINATION

12 BY MR. CEPHAS:

13 Q Can you -- I didn't hear exactly how long were you  
14 assigned to San Bernardino jail.

15 A I started my career there in early 2009, January to  
16 be exact, until I left to go to patrol in 2011, May.

17 Q Do you recall that Mr. Prieto came to San  
18 Bernardino jail around June of 2009?

19 A I do not remember when he came to that jail.

20 Q Do you recall him getting out on bail in April of  
21 2010?

22 A Not exactly the date, but I remember him getting  
23 out on bail.

24 Q Do you remember him getting out on bail less than a  
25 year after he got there?

1 A If that is when he got out, that is when he got  
2 out.

3 Q Has Mr. Prieto been back to San Bernardino jail to  
4 your knowledge since he got out on bail?

5 A Not to my knowledge.

6 Q You indicated that you saw Mr. Prieto(sic) with his  
7 shirt off on many occasions. Did you also see Mr. Prieto  
8 with his shirt off on many occasions?

9 A I don't remember Mr. Prieto seeing him without his  
10 shirt.

11 Q Did you speak to Mr. Prieto on many occasions?

12 A Yes, I have.

13 Q About how many times?

14 A I would say at least couple of dozen times.

15 Q Did you ever see Mr. Rivera speak with individuals  
16 who were not related to the Black Angels gang?

17 A Sure.

18 Q Did you ever see Mr. Prieto speak to individuals in  
19 the prison who were not members of the Black Angels gang?

20 A Sure, I have.

21 Q And when I say for the members of the Black Angels  
22 gang, I also mean not OBS or not Junior Black Angels.

23 A You mean like other gangs from different areas?

24 Q Or just other people who were in custody.

25 A Sure. In their housing unit, they are allowed to



1 talk to each other.

2 Q Where was Mr. Prieto housed during the short period  
3 of time that he was in custody?

4 A As far as I can remember, Mr. Prieto's housing unit  
5 was called L South.

6 Q Sure it wasn't H South? Could it have been H  
7 South?

8 A No. Mr. Prieto was in L South which is an  
9 upstairs, the higher tier.

10 Q How many people did he share a cell with?

11 A Each cell had ten of them, and every tier has  
12 five cells. So there is 50 of them in each tier.

13 Q So Mr. Prieto shared a cell with nine other  
14 individuals?

15 A That is correct.

16 Q And those nine other individuals were not Black  
17 Angels members; correct?

18 A They could have been. Not necessarily. They don't  
19 assign based on their gang affiliation. They just assign  
20 to a cell, and they have to stay in that cell, that is  
21 it.

22 Q As far as you know, were any of the other  
23 nine members in his cell members of Black Angels, OBS or  
24 Angelitos Negros?

25 A I do not know. We have to look at the housing

1 rosters.

2 Q Exhibit 247 which is on the screen --

3 A Yes.

4 Q -- has a date of October 19th, 2012. Is that the  
5 date that the photograph was taken?

6 A That is when I took the photograph. Yes.

7 Q Do you know who wrote the words that are in Exhibit  
8 247?

9 A I believe Mr. Steven Vega did.

10 Q You believe but do you know or are you guessing?

11 A I am taking an educated guess.

12 Q The cell that Mr. Prieto was in, you claim it was L  
13 South. Was that next to Mr. Vega's cell?

14 A It wasn't next to. No.

15 Q Wasn't even in the same area; isn't that correct?

16 A It was in the same area. Same floor.

17 Q How close?

18 A Well, let's say they did not have any physical  
19 access to each other, but if one were to yell,  
20 everyone could hear.

21 Q Okay. Was Mr. Vega's cell closer than the door at  
22 the end of the courtroom?

23 A Maybe a little bit further, but with all the walls  
24 and bars in between them, of course, they are not  
25 directly from that distance. There are just segments,

1 different segments on the side of each other.

2 Q If you had seen Steven Vega -- well, let me  
3 rephrase. Based on your educated guess you believe  
4 Steven Vega carved the names that are in Exhibit 247;  
5 correct?

6 A Well, first, I like to clarify something.

7 Q Okay.

8 A I am not making these educated guesses based on  
9 what I have heard. I am making those educated guesses  
10 based on my training and experience and 12 hours every  
11 day that I worked there that I spent around these guys.  
12 So these are not just some I feel like it kind of things.  
13 He was assigned to the cell by himself for almost a year.  
14 And after him, a gentleman came from Northern California  
15 which has no gang affiliation whatsoever with Southern  
16 California. So my guess would be based on my, like I  
17 said, training and experience, that he put that writing  
18 on there.

19 Q Did you see the writing prior to Mr. Vega being  
20 transferred out of that cell?

21 A I did not.

22 Q Okay. If you had seen Mr. Vega writing that, he  
23 would have been written up; isn't that correct?

24 A He would have. Even if I didn't see him, if he was  
25 still assigned to that cell when I took this picture and

1 located this, yeah, he would get disciplined.

2 Q You would have written him up, and it would have  
3 gone into his file?

4 A It would have. Yes.

5 Q And you would have taken a photo at the time you  
6 did the write-up; correct?

7 A Of course, I would.

8 Q Now, you claim you saw Mr. Prieto writing Crooks  
9 and Ontario, but you didn't write him up for that?

10 A No, I didn't.

11 Q And you didn't take a photo of that?

12 A No, I didn't.

13 Q The name Crook listed in 247 and some of the other  
14 exhibits doesn't indicate who Crook is. Are you aware of  
15 there being another Black Angels member several years  
16 older than Raul Prieto who goes by the moniker Crook?

17 A I am not aware of that.

18 MR. CEPHAS: Nothing further.

19 MR. WALSH: No questions, your Honor.

20 THE COURT: Redirect.

21

22 REDIRECT EXAMINATION

23 BY MR. DORE:

24 Q Is Steven Vega a Black Angels gang member?

25 A Yes, he is.

1 Q And that exhibit we were just looking at 247?

2 A Yes.

3 Q Could you see that easily from the hallway, what  
4 was written in that cell?

5 A No. 247 the roll call of names of Black Angels,  
6 you couldn't see that from the tier because we have  
7 hourly walk arounds. We would have definitely spotted it  
8 way before. It was within the cell, and the only way I  
9 could locate it was when I asked the current resident of  
10 that cell, I removed them from there. And I went inside  
11 the cell and I turned around and looked above the gate  
12 and that is when I saw it.

13 MR. DORE: No further questions.

14 MR. CEPHAS: Nothing further, your Honor.

15 THE COURT: May this witness be excused?

16 MR. NAVARRO: Yes, your Honor.

17 MR. CEPHAS: Yes, your Honor.

18 THE COURT: Thank you, sir. You are excused from  
19 this trial.

20 Your next --

21 MR. DORE: Your Honor, due to scheduling issues,  
22 we would like to call Brice Devey to the stand.

23 THE COURT: Sure.

24 MS. EL-AMAMY: Your Honor, may I approach the  
25 deputy to give her the number of exhibits.

1 THE COURT: Please.

2 (The witness was sworn.)

3 THE CLERK: Please be seated.

4 MR. DORE: With this witness we will be using  
5 Exhibit 89 and 89A which is the corresponding transcript.

6 THE CLERK: Please state your full name and spell  
7 it for the record.

8 THE WITNESS: Brice Devey, B-R-I-C-E, D-E-V-E-Y.

9

10 DIRECT EXAMINATION

11 BY MR. DORE:

12 Q Sir, where are you currently employed?

13 A I am employed as a police officer for the city of  
14 Ontario.

15 Q And how long have you been a police officer with  
16 the Ontario Police Department?

17 A Almost eight years.

18 Q Are you familiar with somebody named Raul Prieto?

19 A Yes, I am.

20 Q And do you see Raul Prieto in the courtroom today?

21 A Yes, I do.

22 Q And could you please identify Mr. Prieto by an  
23 article of clothing he is wearing?

24 A He is wearing a gray button-up shirt.

25 THE COURT: Once again, the defendant has been

1 identified.

2 Q BY MR. DORE:Have you spoken with Mr. Prieto before?

3 A Yes, I have.

4 Q Approximately how many times would you say you have  
5 spoken with Mr. Prieto?

6 A Two, three, maybe four at the most.

7 Q Now, could you please take a look at the disk which  
8 has been marked as Exhibit 89 and the transcript which  
9 has been marked as Exhibit 89A.

10 And do you recognize the disk that has been  
11 marked Exhibit 89?

12 A Yes, I do.

13 Q And how do you recognize it?

14 A It was a disk that I listened to.

15 Q And did you listen -- was there a recording on that  
16 disk?

17 A Yes, there was.

18 Q And did you listen to that recording?

19 A Yes, I did.

20 Q And did you recognize the voice of any participant  
21 in the call on that disk marked as Exhibit 89?

22 A Yes, I did.

23 Q And whose voice did you recognize?

24 A I recognized Raul Prieto.

25 Q Now, could you take a look at Exhibit 89A, please,

1 the transcript. Do you recognize that transcript?

2 A Yes, I do.

3 Q And how do you recognize that transcript marked as  
4 Exhibit 89A?

5 A It was the transcript I reviewed as I listened to  
6 the CD.

7 Q So you were looking at this transcript as you were  
8 listening to the disk marked Exhibit 89; is that correct?

9 A That is correct.

10 Q And did that transcript accurately identify Raul  
11 Prieto as the speaker when he was the person actually  
12 speaking in that conversation on Exhibit 89?

13 A Yes, it did.

14 Q Now, in speaking with Mr. Prieto, has he ever  
15 identified himself to you as a gang member?

16 A Yes, he has.

17 Q And what gang did he identify himself with?

18 A He told me he was a member of OVS.

19 Q And what does OVS stand for?

20 A Onterio Varrio Sur.

21 Q And when did Mr. Prieto tell you he was a member of  
22 OVS?

23 A I believe it was sometime in 2008.

24 MR. DORE: No further questions, your Honor?

25 THE COURT: Cross?



1 MR. CEPHAS: One moment, your Honor.

2 Your Honor, I don't have any questions for  
3 Officer Devey, but I did want to question him in my case  
4 in chief, excuse me, in my case.

5 THE COURT: Go ahead.

6 MR. CEPHAS: So I would just ask that he be put on  
7 hold so that I can call him in my case. I wasn't able to  
8 subpoena him, and I would like to call him.

9 THE COURT: Examine him now. He is here. Examine  
10 him now.

11 MR. CEPHAS: Your Honor, the questions that I want  
12 to examine him on will be follow-up to testimony from  
13 other officers, and it wouldn't -- my questions to him  
14 wouldn't make sense without the testimony of the other  
15 officers, and depending on what they say, I may not need  
16 Officer Devey, but I would like him.

17 THE COURT: You don't want to ask him any  
18 questions right now?

19 MR. CEPHAS: Well, I don't have anything that --

20 THE COURT: "Yes" or "no", come on.

21 MR. CEPHAS: No. No.

22 THE COURT: Okay. Mr. Walsh? Mr. Navarro?

23 MR. WALSH: No questions, your Honor.

24 THE COURT: You may step down.

25 Your next witness.

1 MS. EL-AMAMY: The government calls Michael  
2 Precup.

3 (The witness was sworn.)

4 THE CLERK: Please be seated. Please state your  
5 name and spell your last name for the record.

6 THE WITNESS: Michael Paul Precup, P-R-E-C-U-P.

7

8 DIRECT EXAMINATION

9 BY MS. EL-AMAMY:

10 Q Good afternoon, Mr. Precup. How are you currently  
11 employed?

12 A I am employed by the San Bernardino County  
13 Sheriff's Department.

14 Q In what capacity?

15 A I am an automated systems analyst.

16 Q What does that mean?

17 A I work for their technical side of the division.

18 Q Were you so employed in 2009?

19 A Yes.

20 Q What are your job responsibilities?

21 A I maintain the wiretap system for the San  
22 Bernardino County Sheriff's Department. I also do the  
23 forensics for computers and cell phones and other  
24 technical investigation stuff.

25 Q So, specifically, in layman's terms, what is it

1 that you do?

2 A That is a tough call. I set up and maintain  
3 wiretaps, troubleshoot and make sure they are working  
4 properly, everything gets handled properly. Cell phone  
5 investigations, if they arrest somebody and want  
6 everything pulled off their phone, they give it to me.  
7 Same with computers and all technical devices,  
8 electronics.

9 Q Was that essentially your job in 2009 as well?

10 A Yes.

11 Q Where do you do that job?

12 A It is a covert location within San Bernardino  
13 County.

14 Q What kind of equipment is at that location?

15 A We have obviously a lot of telephone lines coming  
16 into the building. We also have a lot of computer  
17 equipment, servers to maintain, store all the data that  
18 we collect.

19 Q I guess you mentioned wiretaps, what is a wiretap?

20 A Wiretap is basically an interception of telephone  
21 communications between two parties. It gets routed to us  
22 from the telephone carrier.

23 Q How does it work?

24 A The telephone companies all have their telephone  
25 switches that all phone calls traverse through, and I

1 don't know exactly, but on their side, I know that they  
2 have to go into their telephone switches and configure it  
3 so that it goes to the intended party and then also to my  
4 department. And we provide the firmware for them to  
5 submit our analog lines to.

6 Q Can you wiretap any phone you want to?

7 A No. Not necessarily. There are phones that cannot  
8 be. Satellite phones. But most cell phones and land  
9 lines, analog land lines that are built into houses can  
10 be wiretapped.

11 Q Do you need a court order to wiretap?

12 A Yes, I do.

13 Q Can you wiretap indefinitely?

14 A No.

15 Q How long do you wiretap for pursuant to federal  
16 court order?

17 A Each wiretap will give you 30 days of monitoring.

18 Q So when you start a wiretap, what information comes  
19 into whatever system you maintain?

20 A You get the, obviously, the analog audio from the  
21 conversation. You also get the call data content which  
22 is the call direction, the number dialed where its last  
23 known switch, where it was connected from.

24 Q Do you have individuals who monitor the wiretap?

25 A Yes, we do.

1 Q What is their job?

2 A Their job is to listen to the telephone call,  
3 determine if the content is pertinent or not pertinent.  
4 If it is nonpertinent, then you need to minimize the  
5 phone call, or if it is privileged between the privileged  
6 parties, then they stop listening to the phone call.  
7 They also do transcription and take notes for the case  
8 agents.

9 Q Is there something called a line sheet?

10 A Yes.

11 Q What is that?

12 A It is something they use to keep track of calls  
13 coming through, of hot calls.

14 Q Can you record a call without monitoring it?

15 A Only in a consent. If it is a consented party.  
16 Both parties agree to the phone call or a single party to  
17 a pretext call. Otherwise, it has to be monitored.

18 Q So in the case of a regular wiretap, basically,  
19 walk me through what happens when a call is made by an  
20 individual using a telephone.

21 A If it is a regular standard Title III wiretap, the  
22 called party will actually, the calling party will place  
23 the phone call. The telephone carrier will start routing  
24 the call to us, we will hear the -- we will get the  
25 information ingoing, outcoming, the called party number

1 then we will start getting the audio feed. You will hear  
2 the called party pick up the call and the call will take  
3 place. A monitor must be in place to monitor these calls  
4 and listen to it to determine whether or not it is  
5 actually pertinent or nonpertinent call.

6 If at that point, they determine that it is a  
7 pertinent call, they will sit there and listen to it.  
8 They will start writing notes as they hear it come  
9 across. If the call then switches to a nonpertinent  
10 situation, they have to minimize the call. And at that  
11 point of minimization, you don't hear any more of the  
12 audio. It goes back to being silent. And after  
13 two minutes, you can go back in for 30 seconds and spot  
14 check if they're back to talking to pertinent calls.

15 Q Prior to coming into court today, did you review  
16 any recordings related to this case?

17 A Yes, I did.

18 Q Do you know what year those recordings were from?

19 A They were from start of 2009.

20 Q Now, prior to coming to court today, when did you  
21 review those recordings?

22 A It was Tuesday of last week.

23 Q How were you able to review recordings from  
24 three years ago?

25 A We keep and store all calls that we have recorded

1 since the inception.

2 Q Where do you store them?

3 A Locally in San Bernardino.

4 Q What information specifically do you store at your  
5 location?

6 A Both the audio and the call detailed information.

7 Q What information is detailed for the call?

8 A The call direction whether it was incoming or  
9 outgoing. The phone number dialed, any post-cut digits,  
10 if they dialed the number after the phone was picked up,  
11 that type of data plus the synopsis that if anybody who  
12 typed or transcribed the phone call would have typed into  
13 it.

14 Q So you have the audio stored at your location?

15 A Yes.

16 Q And do you also have all this call data that you  
17 mentioned?

18 A Yes.

19 Q How do you know that nothing has changed over the  
20 last three years?

21 A On the calls themselves?

22 Q Calls themselves or the data.

23 A The information is kind of coherent to each other.  
24 The database has all the call-detailed records, and it  
25 points towards the audio file which has similar

1 information into it. It is the way the files are named.

2 Q Now, does this call data include a date and time of  
3 the call?

4 A Yes.

5 Q Where is that information stored?

6 A That is also in the database and in the phone call.

7 Q Is it possible for an individual working at your  
8 location to accidentally change that information?

9 A Yes, but it would break a lot of things. If you  
10 deleted the phone call, the audio then obviously wouldn't  
11 point to something in the database, and it wouldn't work.

12 Q Based on your review of the data and recordings in  
13 this case, do you believe that anything has been altered?

14 A No.

15 Q And why do you believe that?

16 A Because all of the calls that we tested and checked  
17 were exactly where they were supposed to be and worked.

18 Q Now, I am going to ask you to look at all of the  
19 disks. Those are 71 through I believe 181. Do you have  
20 71 through 181 in front you?

21 A I have 71 through 81.

22 Q And then through 181.

23 Now, you mentioned that you met and reviewed  
24 certain items Tuesday of last week. Did you review all  
25 of these disks last week?



1 A Yes, I did.

2 Q How do you know that you reviewed all of those  
3 disks?

4 A Excuse me. I have initialed and dated all of the  
5 disks.

6 Q And when you initialed and dated the disks, what  
7 were you saying was on the disk?

8 A That there was a telephone call that we intercepted  
9 on the phone call on the CD. Excuse me.

10 Q Did you match the call data against what was on  
11 your system?

12 A Yes, I did.

13 Q And how did you do that?

14 A The file name of the disk would give the date and  
15 time of the phone call.

16 Q Let me just have you flip through them just to make  
17 sure that everything has your initial. As you are  
18 flipping through, approximately how long it did it take  
19 for you to review the disks?

20 A It took about four to five hours.

21 Q As you are continuing to flip through, did you also  
22 review transcripts at the same time?

23 A Yes, I did.

24 Q What did you do with respect to the transcripts?

25 A I also initialed and dated them.

1 Q When you were initialing the transcripts, what were  
2 you signifying at that point?

3 A That the dates and times and the durations of the  
4 phone call matched the CD's and my database on my work  
5 station.

6 Q Now, the transcripts also have names of people on  
7 there. Are you able to tell who is speaking based on  
8 your review?

9 A Not necessarily, no.

10 Q So your review was just for call data information?

11 A Just to make sure that the data was correct and  
12 true.

13 Q Now, as you are continuing to flip through, did you  
14 also look at the telephone numbers?

15 A Yes, I did.

16 Q Were you able to verify that the telephone numbers  
17 on the call data and the transcripts were accurate?

18 A Yes, I did.

19 Q And how were you able to do that?

20 A The database was used to pull up the phone calls  
21 and I searched by phone number. That was my key.

22 Q You flipped through a number of disks, are you  
23 satisfied that everything you looked at so far is what  
24 you initialed?

25 A Yes.

1 Q All right. Now, I am going to direct your  
2 attention to, for example, Exhibit 157A and ask that the  
3 courtroom deputy hand you.

4 Do you see your initials on that transcript?

5 A Yes, I do.

6 Q What do those initials signify?

7 A Signifies that the CD that I looked at and the  
8 transcripts -- well, the date and times and the duration  
9 and the called number matched my database.

10 Q Did you make the same notation on every transcript?

11 A Yes, I did.

12 Q Have you reviewed all of those transcripts coming  
13 to court today?

14 A Previously. Yes.

15 Q And so you have the telephone numbers, the  
16 duration, date and time?

17 A Correct.

18 MS. EL-AMAMY: I have no more questions at this  
19 point.

20 THE COURT: Any cross?

21

22 CROSS-EXAMINATION

23 BY MR. CEPHAS:

24 Q Good afternoon, Mr. Precup

25 A Hello.

1 Q What was the timeframe of the calls that were  
2 recorded in this case?

3 A I believe it started in early of 2009. I do not  
4 know what the last call was recorded.

5 Q Can you provide an estimate of approximately how  
6 many calls were recorded?

7 A No.

8 Q Several thousand?

9 A Yes.

10 Q More than 5,000?

11 A I do not know. I know there was 14 numbers that  
12 were included in the investigation.

13 Q Okay. Now, the exhibits that you were asked to  
14 review, it was approximately 111 calls, 110, 111 calls;  
15 correct?

16 A Correct.

17 Q You said you reviewed them and took four to  
18 five hours, when you said you reviewed them, did you  
19 listen to each of the calls?

20 A For a portion of it. Yes.

21 Q You only listened to a portion. You didn't listen  
22 to the entire call?

23 A No, I did not.

24 Q Is it correct that of those 111 or so calls, there  
25 were only two with Raul Prieto; correct?

1 A I did not look at the names.

2 MR. CEPHAS: Nothing further.

3

4 CROSS-EXAMINATION

5 BY MR. NAVARRO:

6 Q Good afternoon, sir.

7 A Hello.

8 Q So would it be correct to say that you are  
9 like an IT person?

10 A Yes.

11 Q With the sheriff's department?

12 A Yes.

13 Q You are not a police officer?

14 A I am not sworn.

15 Q And you are not in those wire rooms listening to  
16 the calls either?

17 A And I am not a monitor, no.

18 Q Now, you were asked how many numbers were recorded,  
19 and you said there were 14 numbers recorded?

20 A Yes.

21 Q Now, do you know if these numbers were recorded  
22 only for 30 days or were there multiple requests to  
23 record the numbers?

24 A Some of them were re-upped for extended times.

25 Q Are you able to tell how many of the numbers were

1 recorded more than 30 days?

2 A I do not have that information in front of me.

3 Q And you can't tell us exactly how many calls?

4 A No. I would be able to if it was requested.

5 Q But it was in the thousands; correct?

6 A It was many calls.

7 MR. NAVARRO: Thank you. No questions.

8

9 CROSS-EXAMINATION

10 BY MR. WALSH:

11 Q In the location where the recording is, is it a  
12 secured location in San Bernardino?

13 A Yes.

14 Q Now, this is a location that is operated by the San  
15 Bernardino Sheriff's Department?

16 A Yes, my location, yes.

17 Q Okay. And does the -- are there more than  
18 one location in San Bernardino?

19 A We have wire rooms in our homicide units. We  
20 support wire rooms for Riverside DEA, Riverside SO,  
21 Southern California Drug Task Force, Ventura, there is  
22 multiple agencies that we actually provide wiretaps for.

23 Q And what was the agency in this case that you were  
24 providing wiretap services for?

25 A I believe this was Riverside DEA.

1 Q And did I hear you correctly, there was 14  
2 telephone numbers that were being tapped in this  
3 investigation?

4 A Yes. That I am aware of, yes.

5 Q And do you recall the number of months or years  
6 during which this investigation took place?

7 A It was early 2009, and I believe it went into 2010  
8 but I don't know how far.

9 Q And while these particular 14 phones were being  
10 monitored, were other wiretap investigations going on at  
11 the same time during 2009 and 2010?

12 A Yes.

13 Q How many other investigations?

14 A I believe we do about 2,000 a year.

15 Q 2,000 telephones?

16 A Yes.

17 Q And how large of a staff of monitors do you have at  
18 that location?

19 A At my location, it all depends on how many wires  
20 each case is doing.

21 Q On an average day.

22 A Well, we would have one wire monitor per line that  
23 we were active on.

24 Q In this particular case, you had 14 lines that were  
25 active?

1 A Yes.

2 Q And there were other investigations going on in the  
3 same time period; is that correct?

4 A Correct.

5 Q So there would be 14 monitors?

6 A At least 14 monitors, yes.

7 Q So then there had to have been additional monitors  
8 of the other lines; is that correct?

9 A Yes. If there were other investigations going on  
10 at that facility.

11 Q And during that period of time, what was the  
12 average number of monitors that you had to have?

13 A For that facility, I would not know.

14 Q And your work at the facility is just maintaining  
15 the equipment?

16 A To set up and install the wires, maintain them,  
17 make sure they work through the duration.

18 MR. WALSH: Nothing further, your Honor.

19 THE COURT: Any redirect?

20 MS. EL-AMAMY: No, your Honor.

21 THE COURT: May this witness step down?

22 MS. EL-AMAMY: Your Honor, before he steps down,  
23 we would ask to move into evidence the transcripts for  
24 Exhibits 71 through 181 which are marked as 71A through  
25 181A as well as Exhibits 71 through 181.



1 THE COURT: Any objection?

2 MR. WALSH: I don't think there has been any  
3 identification of the voices on those transcripts.

4 MS. EL-AMAMY: With the understanding that those  
5 identifications, the people on the transcripts will be  
6 identified through later witnesses.

7 THE COURT: My understanding is he has just  
8 identified that the transcripts are accurate reflections  
9 of what is on the disk; right?

10 MS. EL-AMAMY: Correct. With the dates and the  
11 times.

12 THE COURT: All right. They will be admitted.  
13 You may step down, sir.

14 Do you have another witness?

15 MS. EL-AMAMY: Yes, your Honor. The government  
16 calls Juan Lemus.

17 THE COURT: How about one of those potted plants  
18 sitting at counsel table help you get witnesses in here.

19 (The witness was sworn.)

20 THE CLERK: Please state your name and spell your  
21 last name for the record.

22 THE WITNESS: My name is Juan Lemus, L-E-M-U-S.

23 ///

24 ///

25 DIRECT EXAMINATION

1 BY MS. EL-AMAMY:

2 Q Good afternoon. How are you employed?

3 A Good afternoon. I am a site supervisor for a  
4 company called Metropolitan Interpreters and Translators,  
5 and I also do private consulting for the U.S. government.

6 Q Do you have your own company?

7 A Yes, I do.

8 Q Has the government hired you in any capacity in  
9 this case?

10 A Mostly as a transcriber, quality control  
11 consultants and also as an expert witness to testify in  
12 some of the drug trafficking cases and gang cases.

13 Q Well, specifically, with respect to this case, have  
14 you been hired to do anything?

15 A Yes. To produce transcripts, to revise quality  
16 control and validate the accuracy of the transcripts.

17 Q Do you speak both English and Spanish?

18 A Fluently. Yes.

19 Q Do you have any, specialized training in Spanish?

20 A Well, I am a native-born Spanish speaker. I also  
21 obtained a Bachelor of Arts from the University of  
22 Southern California, USC, and I have also taken tests for  
23 the Drug Enforcement Administration and for the FBI.  
24 Yes.

25 Q So have you listened to recordings prior to coming

1 to court today?

2 A Well, I have been working as a contract site  
3 supervisor for DEA for approximately 16 years. I have  
4 been involved in over a hundred cases' investigations,  
5 and I monitor and listen to thousands and thousands of  
6 intercepted telephone calls.

7 Q With respect specifically just to this case, have  
8 you listened to any recordings?

9 A Many. Yes.

10 Q Why did you do that?

11 A I was hired by the government to produce  
12 transcriptions and some transcripts that had been  
13 produced, I was asked to revise and do quality control on  
14 them.

15 Q What does that mean specifically?

16 A Check for accuracy, check for correct  
17 interpretation, translation of the verbatim. If the call  
18 was in Spanish, translate it into English. If it was in  
19 English, to make sure that it was correctly transcribed  
20 verbatim.

21 Q So, in this case, were you hired, then, to prepare  
22 transcripts just transcribing what you heard on certain  
23 recordings?

24 A That is correct.

25 Q Approximately how much time did you spend doing

1 this job?

2 A Hundreds of hours. I mean, particularly in this  
3 case, I would say four or five hundred hours, I mean, a  
4 lot of hours. There were so many transcripts to prepare.

5 Q Were you paid?

6 A Yes. I am getting paid. Yes.

7 Q What were your rates?

8 A For the production of transcription, I charge \$48  
9 per hour. For revision and validating transcripts, I  
10 charge 52 an hour, and that is based on the production,  
11 if I am transcribing, I produce two minutes of recording  
12 in one hour, and if I am revising, doing quality control,  
13 I produce double amount which is four minutes of  
14 recording per one hour labor.

15 Q Are you getting paid to testify here today?

16 A Yes, I am.

17 Q And how much are you getting paid?

18 A I am getting paid 175 an hour for testifying.

19 Q So approximately how many recordings did you listen  
20 to in this case?

21 A Hundreds. I haven't counted them, but I believe it  
22 is close to 400, 450.

23 Q Let me direct your attention to Exhibits 71 through  
24 181 which is a series of disks?

25 A Okay.

1 Q Prior to coming to court today, did you look at all  
2 of the disks marked 71 through 181?

3 A Yes. I have.

4 Q Did you initial them?

5 A Yes, I did.

6 Q When you initialed them, what were you reflecting?

7 A Again, I was making sure I was doing like a final  
8 revision. I was making sure they have transcripts that  
9 had been prepared, matched the audio recording in that  
10 particular disk.

11 Q Were you also matching the digital data on the  
12 disk?

13 A That is correct, yes.

14 Q What is digital data?

15 A Digital data is not only the audio WAV files that  
16 have been recorded and the disk itself, but also data  
17 such as dates, time stamps on every call that was  
18 intercepted.

19 Q Okay. Now, I am going to direct your attention to  
20 Exhibits 71A through 181A which have already been  
21 admitted into evidence. As you are flipping through, do  
22 you recognize those transcripts?

23 A Yes, I do.

24 Q Did you prepare those transcripts?

25 A Yes, I did them. Yes.

1 Q Okay. And did you sign with your initials every  
2 transcript?

3 A Initialed and I dated. Yes.

4 Q When you were initialing and dating, what were you  
5 saying with your initial and date?

6 A That they were finalized.

7 Q What does finalized mean?

8 A They were fully reviewed. They were accurate to  
9 the best of my knowledge and that they were ready to  
10 present in court.

11 Q Now, I am going to show you as an example, 157A  
12 which has already been admitted into evidence.

13 Taking a look at the first page, do you see  
14 your initials?

15 A Yes. Twice.

16 Q Why did you initial that one twice?

17 A It is two different dates that I initialed it. And  
18 the reason for that was because the first time that I  
19 reviewed them, although the audio calls were in one DVD,  
20 then I was asked by the government to come back and go  
21 through them again because now the audio were  
22 individually recorded and individual disks.

23 Q All right. So you see a date on the top. Did that  
24 date match the digital?

25 A I can't see the date on my screen.

1 Q Sure.

2 A Yes. The date, time, duration.

3 Q Okay. Now, it says two individual's names, David  
4 Navarro and Armando Barajas. Have you ever met either of  
5 those individuals?

6 A I never have.

7 Q All right. How did you put those names there?

8 A Well, this call was intercepted in the government  
9 agency's wire room, and the systems that are used, we  
10 produce line sheets. As a site supervisor, I staff  
11 monitors to intercept these calls and the names of the  
12 participants are usually obtained through line sheets of  
13 individuals that have been identified either by the  
14 investigating agents through DMV records, through calls  
15 that have already been intercepted where people have been  
16 identified.

17 In this particular case, me preparing the  
18 transcripts, I not only used the line sheets but also  
19 used the indictments to learn the name of the individuals  
20 and to learn also the monitors.

21 Q But, basically, that information, you were using  
22 that information to figure out who to put on there. You  
23 don't know for certain that that is the individual who  
24 was speaking?

25 A No. But by listening to the recordings and reading

1 the line sheet and learning who is saying what, I become  
2 familiar who the speakers are, yes.

3 Q So basically you become familiar with a voice?

4 A With a voice, correct.

5 Q Not necessarily who the person is but just that  
6 that person who you identified as David Navarro has the  
7 same voice in all the transcripts?

8 A Who has been identified in the line sheet. Yes.

9 Q So you recognize the voice of Armando Barajas?

10 A That is correct, yes.

11 Q Okay. Now, I am going to show you the first page  
12 of your transcript, and there are some words in italics  
13 and some that are not in italics. What does that mean?

14 MR. CEPHAS: Objection, your Honor.

15 THE COURT: Foundation?

16 MR. CEPHAS: Well, I believe there hasn't been  
17 adequate foundation --

18 THE COURT: Overruled.

19 MR. CEPHAS: -- to show these.

20 THE COURT: Go ahead.

21 Q BY MS. EL-AMAMY: Just looking at what is -- the word  
22 "nothing" is in italics, and the word "oh" is not. What  
23 does that mean?

24 A That means that any word that was spoken in Spanish  
25 in that recording, it was translated into English and was



1     italicized. So the word "nothing" was a word that was  
2     spoken in Spanish and it was translated into English. So  
3     therefore I italicized it to indicate it was a Spanish  
4     speaking word in that recording.

5     Q     So throughout all the transcripts that you initial,  
6     every time we see the word in italics, that is a word  
7     that you translated verbatim into English?

8     A     From Spanish to English. Yes.

9     Q     Did you translate using code language or anything  
10    like that, or was it just a verbatim translation?

11    A     In this particular case, it was verbatim  
12    translation.

13    Q     And that is the practice that you used in 71A  
14    through 181A, all the transcripts?

15    A     That is correct.

16    Q     Okay. Now, you have never met an individual by the  
17    name of Carlos Rivera; is that correct?

18    A     I never have.

19    Q     You would not be able to identify him, would you?

20    A     No, I would not.

21    Q     Have you, in some of these exhibits, listed him as  
22    a speaker in some of the calls?

23    A     Yes. In many of the calls, yes.

24    Q     And in the calls where you listed him as a speaker  
25    in all the transcripts, did that individual have

1 consistently the same voice?

2 A Yes, he did.

3 Q Okay. You never met Jessica Medina, have you?

4 A I never have.

5 Q Did you list her in some of the transcripts?

6 A Yes, I did.

7 Q Can you recognize her voice?

8 A Yes, I could.

9 Q Same question for Raul Prieto?

10 A Yes.

11 Q Approximately how many calls did you listen to with  
12 an individual who you listed as Raul Prieto?

13 A Aside from the transcripts I have prepared, I would  
14 say within a dozen including pertinent and not pertinent  
15 calls, yes.

16 Q But you, again, have never met that individual?

17 A I never have.

18 MS. EL-AMAMY: No further questions.

19 THE COURT: Cross.

20

21 CROSS-EXAMINATION

22 BY MR. WALSH:

23 Q So not having met any of the people that were  
24 actually on the telephone, you had to rely on somebody  
25 else to tell you what the name was; is that right?

1 A Not only that, but in some of the recordings, they  
2 would actually identify themselves within the recordings.

3 Q With their full name, first and last name?

4 A No. Most of the time it is first name or their  
5 moniker.

6 Q And were there occasions where there would be  
7 two people with the same name?

8 A Not that I recall. I mean, again, other times,  
9 they used their monikers, but not that I recall.

10 Q Well, were there two Jessica's?

11 A As far as I remember, I was familiar with Jessica  
12 Medina also known as Jess that I got familiar with.

13 Q Well, was there a Jessica Perez?

14 A It could have been. I prepare only calls that I am  
15 requested by the government to prepare. So I am -- it  
16 could have been. Yes.

17 Q So then you would on those cases where you would  
18 hear a call and someone would self identify themselves,  
19 they would self identify themselves with a first name; is  
20 that correct?

21 A That is correct. Yes.

22 Q And then you would take that first name and get  
23 other information from other investigators who would tell  
24 you that that first name is connected or associated with  
25 another last name; is that right?

1 A That is correct, yes.

2 Q And then you would accept that representation from  
3 the other agents, and you would put those names on the  
4 transcript; is that right?

5 A That is correct, yes.

6 Q And then the familiarity that you would develop  
7 would be upon hearing a voice that had been identified by  
8 someone else and then you would hear that voice on  
9 subsequent telephone calls?

10 A Correct. I would become familiar with the voice.  
11 Yes.

12 MR. WALSH: Nothing further.

13

14 CROSS-EXAMINATION

15 BY MR. CEPHAS:

16 Q Good afternoon.

17 A Good afternoon.

18 Q You reviewed 71 through 181; correct?

19 A Yes.

20 Q In addition, did you review -- not for this trial,  
21 but during your work in this case -- hundreds of other  
22 calls?

23 A That is correct.

24 Q In fact, did you review thousands of calls?

25 A It could have probably reached a thousand, but I

1 know there were hundreds. Yes.

2 Q And of all the calls you reviewed, there was  
3 approximately a dozen calls with a voice that you believe  
4 was associated with someone named Prieto; correct?

5 A Prieto. That is correct, yes.

6 Q And you said some were pertinent, some were  
7 nonpertinent calls?

8 A That is correct. Yes.

9 Q Can you explain to me what a nonpertinent call is?

10 A A nonpertinent call could be a recording, a  
11 telephone call that was intercepted during an  
12 investigation that could have been a casual conversation  
13 that could be a conversation that talked about a general  
14 topic that was not pertinent to the case.

15 MR. CEPHAS: Thank you. Nothing further.

16

17 CROSS-EXAMINATION

18 BY MR. NAVARRO:

19 Q Afternoon, sir.

20 A Afternoon.

21 Q Now, how long have you had your company?

22 A The company itself, I started actually this year on  
23 my own. A private company, myself, this year.

24 Q And how long have you been doing this work?

25 A For approximately 16 years now.

1 Q Now, what educational background do you have in the  
2 Spanish language?

3 A Well, again, I am a native Spanish speaker. I did  
4 obtain a BS in Spanish from USC. Just listening,  
5 thousands and thousands of this type of investigations,  
6 and having testified in federal and state courts and with  
7 all the experience that I have now obtained not only in  
8 supervising hundreds of monitors who are actually  
9 intercepting Title III federal and state authorized  
10 wiretaps, but also I had the opportunity to work with  
11 them closely with law enforcement with federal agents and  
12 local officers.

13 Q Now, is your schooling in this country or in other  
14 countries as well?

15 A I did some schooling in Mexico, but most of my  
16 schooling has been here in the United States, that is  
17 correct. Yes.

18 Q Now, have you taken any, like, exams to be  
19 certified as an interpreter?

20 A Not for the State of California, but I have taken  
21 the exams that DEA provides for me to do this type of  
22 work, and also I took exams that the FBI gives for their  
23 Spanish linguists, and I passed both of them.

24 Q I'm sorry. And have you taken the federal  
25 interpreters test?

1 A No, I have not.

2 MR. NAVARRO: Thank you, your Honor. No further  
3 questions.

4 MS. EL-AMAMY: Just a few questions, your Honor.

5

6 REDIRECT EXAMINATION

7 BY MS. EL-AMAMY:

8 Q You mentioned that some individuals identified  
9 themselves by moniker. What moniker did the individual  
10 that you list in your transcripts, Carlos Rivera,  
11 identify himself as?

12 A Himself as Chino or other people call him Chino.

13 Q All right. Any others?

14 A No. Mostly Chino. Chino was the only one I  
15 recall.

16 Q Did you ever hear the person referred to as Jessica  
17 Medina in your transcripts refer to Chino?

18 A Jessica did mention Chino many, many calls. Yes.

19 Q And what about the individual that you list as Raul  
20 Prieto, did he go by any moniker?

21 A Yes. He went by the moniker Crook, Crooks.

22 MS. EL-AMAMY: Your Honor, at this time, I would  
23 move to admit into evidence 71B through 181B which is the  
24 Spanish language portion of the calls.

25 THE COURT: Any objection?

1 MR. CEPHAS: Object to the extent that the  
2 documents identify the speaker because those names are  
3 based on hearsay.

4 MS. EL-AMAMY: That is fine, your Honor. Just  
5 moving in for the content of the Spanish language  
6 content.

7 THE COURT: The translations; right?

8 MS. EL-AMAMY: That's correct.

9 THE COURT: That is all that is coming in. All  
10 right. Admitted.

11 MS. EL-AMAMY: No further questions.

12 THE COURT: You may step down, sir.

13 THE WITNESS: Thank you.

14 THE COURT: All right. Ladies and gentlemen, we  
15 are going to break for the day. I understand that you  
16 have elected your hours; right? All right. Break the  
17 bad news to us. What is it going to be?

18 THE JUROR: 8:00 o'clock.

19 THE COURT: Okay. See you bright and early.

20 Do not talk about this case amongst your  
21 selves. Don't do any research at home or get on the  
22 Internet and start looking for anything. Don't chat  
23 about this online, text-messaging, blogs, Twitter, any of  
24 that foolishness, please. And we will see you first  
25 thing in the morning.



(At 4:45 p.m., proceedings concluded.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28,  
United States Code, the foregoing is a true and correct  
transcript of the stenographically reported proceedings held  
in the above-entitled matter and that the transcript page  
format is in conformance with the regulations of the  
Judicial Conference of the United States.

Date: December 5, 2012

/s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR